United States Circuit Court of Appeals.

EIGHTH CIRCUIT.

NO. _____

United States of America, - - - - - - - - - *Appellant,*

vs.

Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as Guardian of Nancy Atkins, an Incompetent, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, - - - *Appellees.*

NO. _____

Nancy Atkins, H. A. Ridgway, Guardian of said Nancy Atkins, an Incompetent, Robert L. Rutherford, and A. L. Ferguson, Administrator of the Estate of James A. Ferguson, Deceased, - - - - - - - - - - - - - - - - *Appellants,*

vs.

United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a Minor, A. J. Burchett, as Guardian of Harvey Harrison, a Minor, Minnie Hall, *nee* Atkins, Martin Rowe, Harry Harrison, Minnie Folk, *nee* Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a Corporation, Gem Oil Company, a Corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy,

Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

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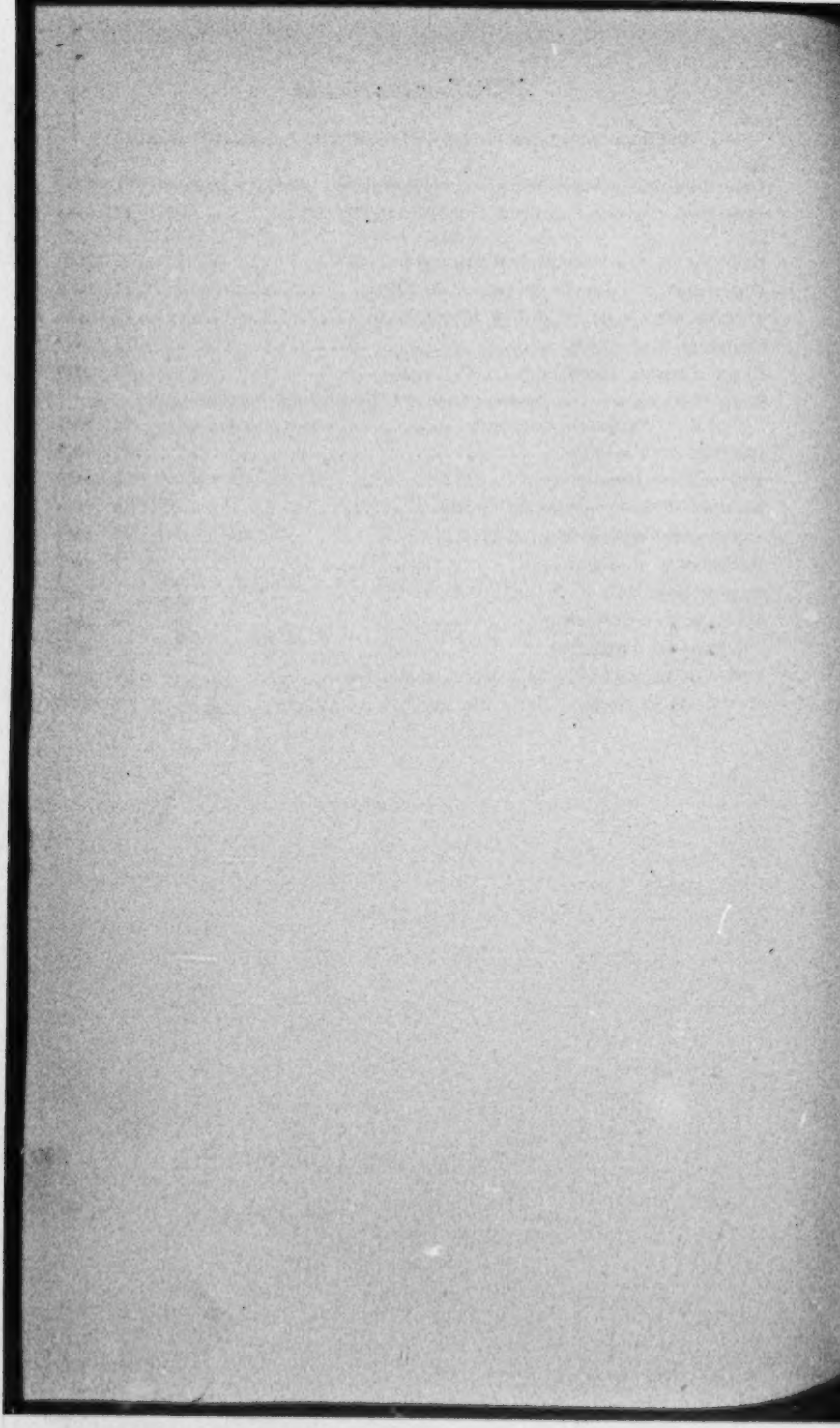

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA.

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE RALPH E. CAMPBELL, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED CAUSE:

UNITED STATES OF AMERICA,

Equity *vs.* **No. 2131**

MINNIE ATKINS, *et al.*

VOLUME VI.

Statement of the Evidence *(Continued)*.

And thereupon, ANDERSON CHILDERS, a witness produced on behalf of the defendant Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Beall.

Q. What is your name? A. Anderson Childers.
Q. Where do you live, Mr. Childers?
A. Northwest of Wagoner.
Q. Are you a Creek citizen? A. Yes, sir.
Q. How long have you lived *on* and around Wagoner?
A. About 25 years.
Q. Do you know Nancy Atkins? A. Yes, sir.
Q. You know Minnie Atkins? A. I have seen her.
Q. Do you know what relationship there is existing between Minnie and Nancy Atkins?
A. Sisters, they are supposed to be.
Q. Same father and same mother?
A. Why I can't say whether they have the same father and same mother or not.

Q. Did you know the father and mother of Minnie and Nancy Atkins? A. No, sir, I don't.

Q. Did you know when Nancy Atkins first moved to Wagoner? A. Yes, sir.

Q. What year was it?

A. I can't say just what year it was; I know about.

Q. About what year? A. Oh, it was about '91 or '92.

Q. About how frequently would you see her in and about Wagoner after she first moved there?

A. Average about once a week.

Q. Did you know Dick Atkins? A. Yes, sir.

Q. Did you know a boy that he had by the name of Thomas Atkins? A. Yes, sir.

Q. Who was the mother of Thomas Atkins?

A. Sallie Atkins.

Q. Where did Thomas and Dick Atkins live?

A. They lived west of Wagoner—northwest of Wagoner, about two miles of my place.

Q. Would you see Thomas Atkins and Dick Atkins, his father, in Wagoner at frequent intervals? A. Yes, sir.

Q. How old a boy was Thomas Atkins when you first knew him? A. He was about five or six years old.

Q. Do you remember what year that was?

A. Somewheres about '90, I suppose.

Q. Is Thomas Atkins alive or dead? A. He is dead.

Q. Do you know when he died?

A. I know about the year he died.

Q. About when was it? A. About 1898.

Q. Did you ever see this Thomas Atkins, the son of Dick and Sallie Atkins, in and around Wagoner with Nancy Atkins?

A. Yes, sir.

Q. State to the Court how often you would see Thomas in company with Nancy in and around Wagoner?

A. Why, what caused me to notice it, his father told me that his son Tommy——

The Court: Perhaps you had better not tell what his father told you; you are asked how often you saw them there together. Don't make any difference what caused you to notice it; how often did you see this Tommy Atkins with Nancy Atkins there at Wagoner?

A. Well, I never saw them more than twice.

Q. When did you see them together?

A. What year you mean?

Q. What year and what places?

A. Why, I seen them there in Wagoner around what was called the Davis & Jones store then, at that time.

Q. About how old a boy was Thomas when you saw him around Davis & Jones store?

A. I suppose somewheres about 7 or 8 years old; six or seven—somewheres along there.

Q. Did you ever see Nancy Atkins in and around Wagoner with any other children? A. Yes, sir.

Q. What other children? A. Minnie Atkins children.

Q. Who were they?

A. One of them was named Lee and the other is named Harvey.

Q. What were their last names?

A. Called them Lee Atkins and Harvey Atkins is all I know.

Q. Did Lee Atkins have some other name?

A. He had some other name but I don't recollect what it was.

Q. Did you ever hear him called Charlie?

A. Yes, sir, I believe so.

Q. When did these children first come to Wagoner?

A. I don't know when they first come there.

Q. How long were they with Nancy Atkins in Wagoner?

A. Well, I don't know that.

Q. Did you see them frequently around the town of Wagoner with Nancy? A. Very often.

Q. To the best of your recollection when was that—what year?

A. Why, they were there the same time that this Tommy Atkins was there—that I seen Tommy Atkins there; that was about '93—'92 or '93.

Q. You said that Thomas Atkins you knew he——

A. Died.

Q. Died in 1898? A. Yes, sir.

Q. Did you see him continuously in and around Wagoner with his father Dick Atkins, up to the time of his death?

A. Yes, sir.

Q. What became of his mother Sallie Atkins?

A. She is in Canada.

Cross Examination by Mr. Allen.

Q. Mr. Childers, did you work a while at the Davis & Jones store? A. No, sir.

Q. Your brother did? A. Yes, sir, my brother Jim.

Q. He is here now? A. Yes, sir.

Q. Were you there frequently during the time that Nancy lived in Wagoner?

A. Yes, sir, I was there from one to three times a week.

Q. Did you know very intimately this Dick Atkins family? A. Yes, sir.
Q. Lived out west of town? A. Yes, sir.
Q. Was there a Mary Atkins in that family?
A. Well, she——
Q. Married a man by the name of Wilson, later?
A. Yes, sir, well, she was Mary Wilson then.
Q. She was a daughter of this Richard Atkins?
A. Yes, sir.
Q. Was there a Nancy Atkins in that family? A. Yes, sir.
Q. She later married a man by the name of Tabor?
A. Tabor, yes, sir.
Q. There was a Susie Atkins in that family? A. Yes, sir.
Q. There was a Thomas Atkins in that family?
A. Yes, sir.
Q. Do you know about how old this boy was when you last saw him? A. What was that question?
Q. Thomas Atkins? A. When he died?
Q. Do you know how old he was, yes, when he died.
A. He was about 12 or 13 years old.
Q. Were you there when they buried him when he died?
A. I was at home but I didn't go to the burial.
Q. Don't know where they purchased the coffin?
A. No, sir, I don't.

Mr. Allen: If Your Honor please, throughout the Nancy Atkins testimony repeated reference has been made to the Thomas Atkins in the family of Richard Atkins, it must leave some confusion in the mind of Your Honor as to the family. I therefore offer as a part of the examination of this witness, Government's Exhibit A-13, which is the testimony in relation to the enrollment case given by Sallie Atkins, the mother of this Richard Atkins' children.

The Court: Is that objected to?

Mr. Hill: Yes, sir, we object.

Mr. Cruce: I don't know what it is; we would like to examine it before——

Mr. Hill: It occurs to me that no matter what it is, any testimony in an entirely different proceeding——

The Court: It occurs to me, too, unless there is some peculiar phase of this case that will make it admissible.

Mr. Allen: She is now dead. This was upon the enrollment case of her children and is a public document

on file in the office of the Dawes Commission here. This is a certified copy of the files.

Mr. Stuart: Judge, you got the census card here which has got all those names on it of this Richard Atkins.

The Court: I think the objection is well taken to the statement made by her even at that other hearing before the Commission, for at most it is hearsay as far as this case is concerned.

Mr. Allen: We then offer as Government's Exhibit A-114, a certified copy of Departmental letter dated December 18th, 1905, relating to the enrollment of members of his family.

Mr. Maxey: We object to that.

The Court: This is the Departmental letter? Let's see that.

Mr. Allen: It is a Departmental letter in which they take action upon the application.

The Court: Judge, let me understand you more clearly as to what light this throws in your judgment on this case.

Mr. Allen: This proof shows, Your Honor, that there was a Thomas Atkins in this Atkins family, and these rights have been adjudicated and these rights to enrollment have been determined adversely to him by the Secretary of the Interior. I follow that up by a very short letter from the Secretary of the Interior approving the latter——

The Court: Let's see; there is first hand proof here by witnesses on the stand of a Thomas Atkins as a member of this Dick Atkins family; the rolls will show I assume pursuant to these letters, etc., that Thomas Atkins was—no, the rolls won't identify him as a member of the family——

Mr. Allen: No, sir; this is the only record that will and I feel that it is——

Mr. Hill: He is identified as being in two other towns—the testimony is he was never in the Euchee town.

The Court: Now, I have excluded the statement, but I will admit the other two as documents——

Mr. Allen: The exhibit—which Your Honor has admitted is the certified copy of Departmental letter of December 29th, 1905, approving Departmental letter of September 5th, 1905.

Mr. Hill: Our exceptions will be noted as to that.

Mr. German: To distinctly show that his case has been disposed of.

The Court: Now this relates to the Thomas Atkins who lived with Dick Atkins as a son of Dick Atkins, nobody is claiming here under him, however?

Mr. German: We are simply showing that that Thomas Atkins who we claim was the child associated with Nancy more or less and who this witness testified that Nancy had confused as Nancy's boy; simply showing that he is another Thomas and we think that important here, showing that his case was disposed of and denying his enrollment.

The Court: Alright; you have your exceptions, gentlemen. Any further question of this witness?

Q. Anderson, did you know Richard Atkins, the father of Cheney Trent? A. Yes, sir.

Q. He was admitted to citizenship in the tribe by a resolution of the Creek Council? A. Yes, sir.

Q. Are you familiar with the contest that was brought against the enrollment of his family? A. Yes, sir.

Q. It was there contended that he was not the original Dick Atkins? A. Yes, sir.

Q. Did you later see the original Dick Atkins who this family impersonated? A. That question again?

Q. Do you know the original Dick Atkins who lived at Sapulpa? A. Yes, sir.

Q. Do you know whether or not this Cheney Trent's father is in a fact a brother—a half brother of Minnie and Nancy Atkins? A. No, sir, I don't.

Mr. German: Your Honor, in connection with this testimony and these exhibits that have been offered, we desire as soon as we can put our hands on it the final action of the Commissioner, an action of the Secretary denying this Dick Atkins and his son, denying his enrollment——

The Court: I was thinking about that testimony; that testimony purports to be given by the mother——

Mr. German: Yes, sir, Sallie Atkins, the mother of this deceased Tommy Atkins and she is dead.

The Court: Now, this relates to pedigree of this Thomas Atkins, his family relations, etc.?

Mr. German: Yes, sir.

The Court: Now, it is suggested that she is dead?

Mr. German: Yes, sir.

The Court: And this is statements made by her to the Dawes Commission while she lived——

Mr. German: Yes, sir, and as to who he was——

The Court: Well, if her death is shown, that under the rule in this case would be—I am assuming for the purpose of this consideration that it is—that the identity and pedigree of this Thomas Atkins in the Dick Atkins family has some connection or throws some light on this case here.

Mr. German: That is our contention, yes, sir, and think it is extremely important——

Mr. Stuart: Your Honor, we make no objection to the judgment of the Secretary refusing this Thomas Atkins citizenship.

The Court: Those are admitted. The only question now is whether the testimony by this mother of Dick Atkins shall be received.

Mr. German: Well, it is in——

The Court: I will not encumber the record with it.

Mr. German: It is important on this theory that distinctly identifies that Thomas Atkins whose enrollment was denied.

The Court: Well, I think he has been identified by first hand proof.

Mr. Allen: It also has this purpose, Your Honor; it gives the original names of all the members of her family and the nickname of all those members, shows the similarity of names there with the names in the other branch of the Atkins family.

The Court: Is it in evidence here further than the statement of counsel that she is dead.

Mr. Maxey: Cheney Trent testified she is dead.

Q. Do you know whether she is dead?
A. Sallie Atkins?
Q. Yes. A. She is living.
Q. Sallie is? A. Sallie is, yes, sir.

Mr. German: I want to say to the Court that that is news to us, and I want the record to show that.

A. She is living unless she died lately; we got a letter from her last winter.
Q. Do you know where she is? A. She is in Canada.

Mr. German: She is in Canada. Your Honor, I knew there was a reason; she is out of the reach of this court.

The Court: I think we had better not pass on this until we can locate her a little more definitely.

Q. Where did you say Sallie is living?
A. She is in Canada.
Q. What place in Canada?
A. She is in the western part of Canada; I don't remember just the postoffice.

Mr. Allen: Your Honor, I think under that ruling this is admissible.

The Court: I will exclude it; a little later I will see. I am going to resolve the doubt against you now.

Witness dismissed.

Mr. Stuart: Your Honor, here is Charlie Harrison, Mr. Cobb asked us to make proffer of him; here he is.

The Court: What is his name?

Mr. Hanford: Sometimes called Lee Harrison.

The Court: Now, Judge, I understand that closes—

Mr. Stuart: We close, Your Honor, except as to one witness; we have been—we have not been able to get him here—he is a witness in Leavenworth, and we probably can't get him here for several days. * * * We are going to bring him here to swear that his name on this petition is a forgery; this Lillie White petition was a forgery. They took the deposition of Mrs. Van Duzee at Leavenworth, and she denied there that she signed it for him. Mr. Van Duzee at that time was not available. Since that time we have found out that was not his signature.

The Court: Then you understand gentlemen, the extent of this evidence?

And thereupon, T. HOWARD MORTON was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. T. Howard Morton.
Q. You live in Wagoner? A. Yes, sir.
Q. What is your age? A. Forty-six year

Q. How long have you lived in the city of Wagoner?
A. Twenty-six year.
Q. What year did you go to Wagoner?
A. Went there in the year 1891.
Q. Did you know Nancy Atkins about that time?
A. I did.
Q. What were you doing at that time?
A. I was in the mercantile business.
Q. For yourself?
A. No, with a company, with the Davis & Jones Mercantile Company.
Q. You were a member of that company at that time?
A. No, I wasn't a member of the company at that time.
Q. You were working for the company?
A. Working for the company.
Q. How long did you continue to work for the Davis & Jones Store? A. As long as they were in business.
Q. During all that time did you know Nancy Atkins?
A. I knew her when I first went there; she left there before *the* went out of business; I don't know how long.
Q. Well, during the time that she was there, did you know of her having any boy by the name of Thomas Atkins?
A. I did not.
Q. Or any living child? A. No, sir.
Q. Did you know Thomas Atkins in the family of Chaney Trent?
Q. Did you know Thomas Atkins in the family of Chaney Trent, Richard Atkins? A. I did.
Q. What relation was he to Chaney Trent?
A. I think he was a brother or half brother, I don't know which.
Q. And to Richard Atkins? A. Son of Richard Atkins.
Q. Where did he live?
A. He lived northwest of Wagoner about ten mile.
Q. Do you know about when he died?
A. I know something about when he died, I couldn't state, I don't remember the year he died in.
Q. About how old was he?
A. If I remember right, he was between ten and twelve years old.
Q. Did you ever see him around Davis & Jones' Store?
A. Yes, sir.
Q. How frequently?
A. Well, very frequently, I don't know just how frequently.
Q. Did you ever see him with Nancy Atkins?
A. I don't know as I ever did, couldn't recall that now.

Q. What did this boy do?

A. Why, he was just a farmer boy out there with his father; he was around out there with his father.

Q. Did his father do any work in town?

A. He hauled wood to town.

Q. Would this boy be with him?

A. The boy was with him often, yes, sir.

Q. Did this boy ever work for you, Mr. Morton?

A. He hauled wood for me.

Q. Where? A. In Wagoner.

Q. In the town?

A. No, hauled wood from the country to my house.

Q. During all the time that you have lived in Wagoner is that the only Thomas Atkins you knew there? A. Yes, sir.

Q. Did you know Charlie and Harvey Harrison?

A. Yes, sir.

Q. Who did they live with? A. I don't remember who they lived with.

Q. Do you know whether either one of them ever lived with Nancy or not? A. No, I don't know.

Q. When did Davis & Jones store go out of business?

A. Davis and Jones—— I believe Davis and Jones dissolved partnership about 1902 or '3.

Q. Were you a member of that firm when it went out of business?

A. I was a member of the firm when it went out of business.

Q. You have since engaged in the mercantile business in Wagoner on your own account? A. Yes, sir.

Q. You are now in the mercantile business in Wagoner?

A. Yes, sir.

The Court: Cross examine.

Mr. Stuart: No cross examination.

(Witness dismissed.)

And thereupon, JIM CHILDERS was called and sworn as a witness for and on behalf of the Government and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Jim Childers.

Q. What age are you, Mr. Childers?

A. I am forty-two years old.

Q. Where do you live? A. I live in Kusa, Oklahoma.

Q. Where is that?

A. That is on the M., O. & G. south.

Mr. Maxey: Near Henryetta.

A. Five miles of Henryetta.

Q. When did you move to Kusa?

A. I moved there the first of March a year ago.

Q. Did you ever live close to Wagoner or in Wagoner?

A. Yes, sir, I lived at Wagoner.

Q. When did you last move away from Wagoner?

A. I moved away from Wagoner in 1912.

Q. Where were you raised?

A. Principally in and around Wagoner.

Q. And you are forty-two years old you say?

A. Yes, sir.

Q. Are you a citizen of the Creek Nation? A. Yes, sir.

Q. What blood? A. Creek.

Q. How much Indian blood? A. Three quarters.

Q. Who was your father, Mr. Childers?

A. Pole Childers.

Q. Napoleon Boneparte Childers? A. Yes, sir.

Q. Known as Judge Childers? A. Yes, sir.

Q. You and Ellis Childers are brothers? A. Yes, sir.

Q. Where did your father live up to the time of his death, well the last several years of his life, where did he live?

A. Lived about nine miles northwest of Wagoner.

Q. About when did he die, seven or eight years ago?

A. 1909.

Q. You are a married man? A. Yes, sir.

Q. Were you married when you lived near Wagoner?

A. Yes, sir.

Q. When did you marry, Jim?

A. Married the first time in '95.

Q. 1895? A. Yes, sir.

Q. Were you living with your father up to the time of your marriage? A. Yes, sir.

Q. Then, where did you live after your marriage?

A. I moved on a place about a mile and a half south of where my father lived.

Q. Did you know Dick Atkins? A. Yes, sir.

Q. How far did they live from your father?

A. About a mile and a half.

Q. Out in the country northwest of Wagoner?

A. Yes, sir.

Q. Where was the trading point of your father's family and the Dick Atkins family? A. Wagoner.

Q. Prior to your marriage, did you know Nancy Atkins?

A. Yes, sir.

Q. About how long did you know Nancy?

A. I first knew her in 1890.

Q. When she moved to Wagoner?

A. She was in Wagoner when I first knew her.

Q. Did you know Nancy Atkins when she was in a family way? A. Yes, sir.

Q. You were living out in the country with your father at that time? A. Yes, sir.

Q. Did you have any kin folks living in Wagoner at that time? A. Yes, sir, I had an uncle.

Q. What was his name? A. Bob Childers.

Q. Did you know Betsy Birney? A. Yes, sir.

Q. Where did she live at that time? A. Wagoner.

Q. Did you know Elnora Williams? A. Yes, sir.

Q. She lived in Wagoner? A. Yes, sir.

Q. Did you know Mandy Barnett? A. Yes, sir.

Q. She lived in Wagoner too? A. Yes, sir.

Q. Were you acquainted with these colored families that I have named prior to 1890? A. No, sir.

Q. Before 1890? A. No, sir.

Q. They all moved there about the time the railroad came in there, the Iron Mountain, is that right?

A. They were there when I first knew them, I don't know when they moved there.

Q. Now, it was your uncle, you say?

A. My uncle, yes, sir.

Q. What was his given name? A. Bob Childers.

Q. Where did he live with reference to where Betsy Birney and Elnora Williams lived?

A. Well, it must have been something like a quarter of a mile north and west.

Q. On which side of the railroad track?

A. On the west side.

Q. Where was the town of Wagoner at that time, on which side of the railroad track?

A. Well, the most of the town was on the west side, the business.

Q. And you say you knew Nancy when she was in a family way? A. I knew her in a family way, yes, sir.

Q. Did you have any personal knowledge, not hearsay, any personal knowledge of Nancy having a baby, of your own personal knowledge? A. No, sir.

Q. Did you see her after this condition disappeared, this condition of pregnancy? A. Yes, sir.

Q. Where was Nancy living at the time this condition of pregnancy existed? A. Well, she was in Wagoner.

Q. Do you know who she was living with?

A. Living at the Birney's.

Q. How long after this condition of pregnancy disappeared, was it, until you saw her again if you remember?

A. I don't remember just how long, several months, something like two or three months.

Q. How frequently then did you see her after that?

A. Well, I saw her something like every two or three months up until along in '94. I was going to school at that time, of course I didn't come home only every two or three months.

Q. Where were you going to school?

A. Well, I went to school at Coweta Mission and at Fort Smith.

Q. The Coweta Mission was about how far west of where you lived? A. About twelve miles.

Q. Did you ever work in Davis & Jones Store?

A. Yes, sir.

Q. When did you commence working there, about when?

A. In '94, I think it was.

Q. How long did you work in the store?

A. I worked there something like a year.

Q. Then, what did you do?

A. I moved out in the country; I left town after I quit working for Davis & Jones.

Q. Where did you go? A. I went out to my father's.

Q. Then, how long was it until you married?

A. Married in '95.

Q. I mean how long after this was it until you married, well it wasn't long? A. No, sir.

Q. I am not particular about the date of your marriage; you lived out near your father's? A. Yes, sir.

Q. How long did you live there near your father?

A. I lived there until 1912.

Q. Did you know Nancy Atkins intimately from the time you first knew her until she left Wagoner?

A. Yes, sir, I knew her.

Q. Did you talk with her? A. Yes, sir.

Q. When you were in Davis & Jones Store would you see her very often? A. Yes, sir.

Q. State whether or not there was any body around Wagoner or that you knew in the country, or in Wagoner, by the name of Thomas Atkins? A. Yes, sir.

Q. What boy was that? A. Dick Atkins' son.

Q. Did he ever come to Wagoner? A. Yes, sir.

Q. Was he ever in the store? A. Yes, sir.

Q. What would be the occasion of him coming to Wagoner or being in there?

A. Come there, his folks would bring him to town.

Q. Now, did you see him with Nancy? A. Yes, sir.

Q. About how often would you see him with Nancy?

A. Oh, something like two or three days at a time.

Q. Would he sometimes stay with her? A. Yes, sir.

Q. Do you know whether Nancy and Dick Atkins claimed kin? A. They claimed half brothers and sisters.

Q. Dick Atkins and Nancy? A. Yes, sir.

Q. Did Dick and Nancy associate together any?

A. Yes, sir.

Q. Do you know whether Nancy would go out to Dick's house? A. Yes, sir.

Q. About what aged boy was this Thomas Atkins when you were working in the store?

A. Well, I judge he was four or five years old maybe, I never did know how old he was.

Q. When did you first know him?

A. I knowed him when the folks first moved to this country.

Q. Where from? A. Missouri.

Q. That is the Dick Atkins family? A. Yes, sir.

Q. He was a little child in the family? A. Yes, sir.

Q. Do you know what became of him? A. He died.

Q. Was there any other Thomas Atkins in Wagoner?

A. Not that ever I knowed.

Q. Not that ever you knew? A. No.

Q. When you were in Wagoner when you were working in the store or before you worked in the store and after you worked in the store were you well acquainted with people in Wagoner? A. Yes, sir.

Q. At the time you worked in the store, state whether you knew every person that lived in Wagoner?

A. I knew the majority that had been there any time.

Q. And you say there was no Thomas Atkins there?

A. No, sir.

Q. Except this Thomas that you were talking about?

A. Dick's Thomas.

Q. Was there any children in the Betsy Birney family?

A. Yes, sir, Betsy Birney had several.

Q. Were there any other colored children around town?

A. Yes, there was quite a number.

Q. Now, Jim, do you know Harvey and Charlie, Minnie's children, Harvey and Charlie?

A. I know Harvey, I don't know Charlie by that name.

Q. Do you know him by the name of Lee?

A. I knew one boy by the name of Lee, brother to Harvey.

Q. Do you know this young man sitting over here by Minnie? A. Yes, sir.

Q. Who is that? A. Lee.

Q. That is Minnie's child? When did you first know him?

A. It was '95.

Q. Did Nancy ever have anything to do with Harvey and Lee? A. Kept them.

Q. About how long?

A. Well, I couldn't say how long, I don't know how long she had them.

Q. It wasn't a great while, it wasn't any large number of years? A. Oh, no.

Q. Now, did you ever have anything to do with Charlie?

A. Charlie?

Q. Yes? A. No, sir.

Q. I mean with Harvey? A. Yes, sir.

Q. What did you have to do with Harvey?

A. Well, I taken Harvey and kept him.

Q. Who did you get Harvey from?

A. I got him from Nancy.

Q. What was his condition as to being taken care of when you got him?

A. Well, he didn't look like he had been taken care of.

Q. How was he garbed, how was he dressed?

A. Well, he didn't hardly have any clothes.

Q. What time in the year was it you got him?

A. In the winter time.

Q. How did you happen to take him?

A. Well, Nancy sent for me to come down where she was staying. I went down to see what she wanted and when I got down there she told me she had a couple of boys that belonged to her sister, and that she wasn't able to take care of them, make a living for them, and she wanted me to take Harvey, and said another gentleman out in the country had promised to take Lee.

Q. Who was that other gentleman?

A. Charlie Bailey. And asked me if I wouldn't take Harvey and take care of him.

Q. Where was it that you had this conversation with her if you remember?

A. The time I got the boys she was at Eliza Barnett's.

Q. That is Eliza Sterling now? A. Yes, sir.

Q. Colored woman? A. Yes, sir.

Q. Well, was Lee there then, Minnie's child Lee, was he there with Nancy at the time?

A. I don't remember whether he was or not.

Q. Did you take Harvey at that time?

A. Yes, sir, taken him that evening. I told her I would be back that evening.

The Court: You got him that evening?

A. Yes, sir, I got him that evening.

Q. What kind of weather was it then? A. Cold weather.

Q. Did you get him any clothes?

A. Yes, sir, I had to get some clothes before I could take him out.

The Court: How old was he then, about?

A. I judge him to be four or five years old.

Q. You took him out to your home? A. Yes, sir.

Q. How long did you keep him?

A. I kept him until '98.

Q. Then, what was done with him?

A. I turned him over to a woman that claimed to be her aunt, Kate Holden.

Q. Where did she get him?

A. She come to my house and got him.

Q. Where did Kate live, if you remember?

A. She lived on the west side of the Arkansas River close to Choska.

Q. Choska was on the north side of the Arkansas?

A. Just across the river from Choska.

Q. She lived on the other side of the river?

A. West side, yes, sir.

Q. How long after that was it until you saw Harvey again? A. I couldn't say.

Q. Well, you have seen him off and on since then?

A. Yes, sir.

Q. Did you ever keep him any more? A. No, sir.

Q. How long did you keep him, about how long?

A. I took him in the winter and kept him until that summer.

Q. So, you didn't keep him as much as a year?

A. No, not quite a year.

Q. And this aunt come and got him, this alleged aunt, the next summer after you got him in the winter? A. Yes, sir.

Q. And she got him you say in 1898? A. I think so.

Q. You think so. Was there any child that Nancy took care of there in Wagoner outside of these two boys that you know of? A. Taken care of?

Q. Yes? A. Not that I know of, no, sir.

Q. State whether these colored children that you mentioned as living in Wagoner, including these Birney children, would be around with Nancy, whether they would run around with her some or not?

A. Yes, sir, I have seen them together a number of times.

Q. State whether or not they would come in the store together sometimes when you were working there?

A. Yes, sir, pretty often.

Q. And prior to that time, before you were working in the store, would you see her around with the children?

A. Yes, sir.
Q. And afterwards too? A. Yes, sir.

Cross Examination by Mr. Rosser.

Q. Mr. Childers, you say you are forty-two years old now?
A. Yes, sir.
Q. Then you were about fifteen years old in 1890 when you first got acquainted with Nancy, in 1890, I believe you say? A. Yes, sir.
Q. Where were you living at that time?
A. Living with my father.
Q. And how far did he live from Wagoner?
A. Nine miles northwest.
Q. Northwest. When was it that you moved to Wagoner, started to work in a store? A. '94.
Q. What is that? A. '94.
Q. You were then about eighteen years old. Do you remember what time in '94 you went there? A. No, I don't.
Q. Can't you fix the time of year that you went to work for Davis & Jones? A. Sir?
Q. Can't you fix the time you went to work for Davis & Jones, about the time? A. I don't recall the dates.
Q. I am not asking for the exact date, but about the time, can you state the season of the year you went there to work for Davis & Jones?
A. I think it was in the spring.
Q. You think it was in the spring? A. Yes, sir.
Q. You had never lived in Wagoner until you went to work for Davis & Jones, had you? A. No, sir.
Q. You had been going to school prior to the time you went to work for Davis & Jones, hadn't you? A. Yes, sir.
Q. Had you been through the school year and finished a school year at the time you went to work for them?
A. I never finished a school.
Q. You went through a whole school year? A. No, sir.
Q. Where had you been attending school just prior to the time you went to work for Davis & Jones? A. Fort Smith.
Q. What school? A. Commercial College.
Q. And had you finished the course? A. No, sir.
Q. So that you can't fix the time that you quit school to go to work for Davis & Jones?
A. I never finished school. Just came home and didn't go back.
Q. At the time you got acquainted with Nancy you were not living in Wagoner at all? A. No, sir.
Q. You were living out with your father? A. Yes, sir.

Q. Do you remember what time of the year it was you got acquainted with her? A. No, sir.

Q. You were then a boy about fifteen. How old was Nancy apparently, at that time? A. I don't know.

Q. Did you notice that she was pregnant at that time?

A. Yes, sir.

Q. Now, did you actually get acquainted with her then, or did you just see her on the street and find out who she was?

A. I didn't say she was pregnant when I first got acquainted with her.

Q. Well, was she? A. No, sir.

Q. How long after that was it that you noticed that she was in a family way? A. Something like a year maybe.

Q. About a year. Now, was it you say a year during that time before you noticed that she was in a pregnant condition?

A. Oh, I don't know, two months, two or three months.

Q. You were attending school, were you, during that time?

A. I was going backward and forwards.

Q. What school were you attending?

A. I was attending the Coweta Mission when I first got acquainted with her.

Q. You were attending the Coweta Mission in 1890, the school you went to was the Coweta Mission? A. Yes, sir.

Q. Did you go there the following year? A. I went in '91.

Q. How far is Coweta Mission from Wagoner?

A. I think they call that sixteen miles.

Q. Then you didn't live in Wagoner during that time and didn't attend school in Wagoner during that period?

A. No, sir.

Q. When was it you say you got acquainted with the Richard Atkins family?

A. When they first come to the country.

Q. Do you remember about when that was?

A. About the latter part of '90 or the first part of '91.

Q. That was when Richard Atkins came? A. Yes, sir.

Q. How far did he live from you?

A. He lived about a mile and a half from my father.

Q. I believe you stated that; I beg your pardon. Now, you acquainted with all the members of his family at that time did you? A. No, sir.

Q. You didn't? You don't know how many were in his family at that time? A. No, sir, never did know.

Q. Never did know? Well, now, your father was a man of considerable means wasn't he? That is true, isn't it? Your father was a man of considerable means? A. Yes, sir.

Q. Sent his children away to school and all that; that is true? A. Yes, sir.

Q. Nancy Atkins lived with colored people, didn't she, the early time that you knew her? A. Yes, sir.

Q. You ascertained when, at the time that you first noticed that she was pregnant, you ascertained that she was not married, didn't you? You knew that she was not married?

A. I didn't know anything about her marriage.

Q. Well, I say, didn't you at the time that you ascertained of her condition of pregnancy, when you first noticed that, you knew that she was not a married woman, didn't you?

A. I never knew of her marrying.

Q. Well, you knew she was not married, didn't you?

A. Yes, sir.

Q. During that period and at that time you went to work for Davis & Jones, you didn't visit where she was; you didn't have anything to do with that sort of people at that time, did you? A. No, sir.

Q. When you went to work for Davis & Jones, you were working in the store, that is you were selling goods in the store? A. Yes, sir.

Q. Your acquaintance with Nancy at the time you went there was simply a passing acquaintance such as you would have with any other customer of the store, wasn't it?

A. Yes, sir.

Q. You were then, I believe you stated, about 18 or 19 years old? A. I didn't say.

Q. Well, how old were you when you went to work in the store? I believe you said you went to work there about '94, didn't you? A. Yes, sir.

Q. Well, then as a matter of fact, you were about 18 or 19 years old, weren't you? A. Whatever it would make me.

Q. Well, you were just a boy, weren't you—weren't a grown man, were you? A. No, sir.

Q. You had associates in Wagoner of your own age about that time? A. Yes, sir.

Q. That you were acquainted with and that you associated with? A. Yes, sir.

Q. Now, you weren't making any particular investigation as to the small children as to families there in Wagoner, were you?

A. No, sir, I never investigated anything of that kind at all.

Q. And especially of colored people and associates of colored people—you weren't making any investigation at that time were you?

A. I never made any investigation in matters of that kind because it wasn't nothing to me.

Q. All that you know about this is that you simply don't remember a child of Nancy's at that time, that is it?

A. No, sir, I don't remember a child of hers.

Q. I say that is all you know about it; you didn't make any investigation to find out? A. No, sir.

Q. You stated that you went, after you were married and took this child Harvey Harrison to your house—— A. Yes, sir.

Q. And you kept him about a year or little less than a year? A. Yes, sir.

Q. And he was then how old?

A. I judge him to be four or five years old.

Q. Four or five. At that time you stated a while ago that you don't remember whether Lee was there or not?

A. No, sir.

Q. You don't remember that? A. No, sir.

Q. You don't remember seeing any child there except Harvey with Nancy? A. Yes, sir.

Q. And did you go to where she was living to get him, you said you did, didn't you?

A. Well, I can't say whether she was living there or not, but she was there.

Q. Well, you went to a place where she was to get him?

A. Where she was, yes, sir.

Q. Where was that? A. Eliza Barnett's house.

Q. Eliza Barnett's? A. Yes, sir.

Q. And you took him home with you from Eliza Barnett's? A. Yes, sir.

Q. You couldn't say now what other children you saw there at that time?

A. Because she was sick in the bed in the room; wasn't no other children there in the room then this little boy was there that I took.

Q. Now, what time of the year was that?

A. Wintertime.

Q. Wintertime. And about a year after that then, you took him to Kate Holden? A. Yes, sir.

Q. You stated a while ago that was in 1898, why do you say it was in '98—what fixes that in your mind as to the time?

A. Well, they commenced filing in the spring of '98 as well as I remember and they wanted to file him on some land over there, why she came to get him, is what she told me.

Q. That is the reason you turned him over to Kate Holden; they were making this first filing at the time you turned him over to Kate Holden?

A. Well, they were filing; I don't know whether it was the first or not. I know they were filing.

Q. That fixes it as to the time, when the filing—you gave him to Kate Holden? A. And other instances.

Q. But you are sure it was 1898? A. I think so.

Q. And he was boy four or five years old?

A. When I got him, yes, sir.

Q. Well, how old was he at the time you gave him to Kate Holden? A. Couldn't have been very much older.

Q. Sure you didn't have him more than a year?

A. I can't say; I don't know the date of his birth; might have perhaps been over another year. I don't remember; don't know anything about that.

Q. Well, you can't state whether he was a boy seven or eight years, or nine years old when you turned him over to Kate Holden? A. He wasn't eight or nine years old.

Q. Well, was he six years old, or seven years old?

A. He might have been somewhere between five and six.

Q. Somewhere between five and six. Now, did you know Lee Atkins, the brother of——

A. I knew Lee Atkins, that Charlie Bailey had taken from Nancy.

Q. Well, I am talking about the brother of Minnie and Nancy? Did you know him, who used to run a pool hall here in Muskogee; got killed down here at Checotah, or Eufaula somewhere?

A. I knew him when I seen him; wasn't personally acquainted with him.

Q. Knew him when you saw him? A. Yes, sir.

Q. Do you remember when he was killed? A. No, sir.

Q. You don't remember that?

Recross Examination by Mr. German.

Q. What other store was in Wagoner at the time you clerked in Davis & Jones' store, if any?

A. There was I think, about two more stores besides——

Q. Where were they located?

A. One of them was Dunlap & Taylor, was just a little west from the Davis & Jones store, and the other two was across the track.

Q. Now, where did these colored folks that you mentioned, with whom Nancy stayed, live—where did they live?

Q. They lived just back of Davis & Jones' store.

Q. That was the nearest store to which they lived?

A. Yes, sir.

Q. What kind of store was that?

A. General merchandise.

Q. Groceries, hardware, and everything? A. Yes, sir.

Q. Would these colored folks trade there was a rule?
A. Yes, sir.
Q. Were they around the store much?
A. Yes, sir, pretty near every day.
Q. Was Nancy around the store very much?
A. Pretty near every day.
Q. Nancy you said had no child of her own around there?
A. Not of my knowing.

Witness dismissed.

The Court: Is this all the witnesses the Government has along this line at present?

Mr. Allen: We have some that we haven't talked to.

Mr. Cobb: We desire to recall Dennis Jones.

The Court: Dennis Jones may take the stand.

And thereupon, DENNIS JONES being recalled, further testified as follows:

Recross Examination by Mr. Cobb.

Q. You are the same Dennis Jones who has testified before in this case? A. Yes, sir.

Q. I will ask you if one of the newspapers published in Leavenworth, Kansas, is not the Leavenworth Times?

A. Yes, sir.

Q. I will ask you also if along about December, 1914, or the early part of January, 1915, there wasn't considerable comment in the various newspapers in Leavenworth about the Tommy Atkins matter? A. Yes, sir.

Q. You were at that time actively engaged in investigating the Tommy Atkins matter? A. Yes, sir.

Q. The newspaper reporters and representatives of the newspapers frequently came to you for information and talked to you about the matter?

A. Yes, I talked to them but they didn't come to me direct.

Q. You talked to them about the matter? A. Yes, sir.

Q. I will ask you if you remember an article appearing in the Leavenworth Times of the issue of December 6th, 1914, reading as follows:

Mr. Cobb: Now, I will state to the Court here that we were not able to get a copy of that paper itself and that we are indebted to Mr. Endres of counsel for the Government for the typewritten copy which we have here.

The Court: Let me see what you are moving to. You propose to interrogate this witness as to whether or not he was responsible for that statement?

Mr. Cobb: Yes, sir.

The Court: And then you propose to offer that as a statement made by him in regard to some feature of this case?

Mr. Cobb: Yes, sir.

The Court: Alright.

Q. Reading as follows: "Believe Carter is Minnie's heir. Dennis Jones who remembers much of his early life relates story of his life. Dennis Jones, a colored attorney who has been acquainted with the gossip in this city for thirty years, believes Henry Carter, 1115 High Street, is the son of the Indian Minnie Atkins, and incidentally heir to a small fortune through inheritance to a claim on the Indian Reservation, which is rich in oil. Mr. Jones bases this belief on the similarity of dates——

Mr. Cruce: If the Court please, we didn't know what was in that article.

The Court: Well, is it very much longer?

Mr. Cobb: Three or four paragraphs.

The Court: Well, if that is the character of it, I don't think the statement of this witness in regard to it would be competent even on cross examination. If that is a conclusion, the Court must determine. How would it be competent?

Mr. Cobb: If Dennis Jones gave a statement to the newspapers, the basis of this article, it goes to impeachment of him. He testified positively that H Carter was not the—— * * * It is a matter that goes to his credibility.

Mr. Cruce: I am inclined to think, Your Honor, that—my objection to the testimony is that it is not competent as substantive testimony. Counsel is probably right that it goes to effect his credibility.

The Court: Yes, I think so; go on.

"and places surrounding the birth and first twelve years of the life of Tommy Atkins and Henry Carter. Henry Carter, so far as is known, was born at Granny Letcher's place on Seneca street and so was Tommy Atkins. Carter never had anybody inform him that he was born any where else than at the famous old rooming house, and it was there that his first

memories of early affairs came to him. The Carter family with whom Henry Carter went to live and whose name he took, is related distantly to Mrs. Dennis Jones. Neighbors of hers state that Henry Carter was a son of Mrs. Carter but when the youth asked Mrs. Carter this, she denied it, saying that his mother was an Indian woman named Minnie. My wife has told me that Carter called at our home one day and endeavored to learn something of his mother, said Mr. Jones yesterday. She also was unable to tell him anything. He said that he asked Mrs. Carter and she could tell him little. Then he went to Oklahoma and spent several years searching for his parents, offering rewards to any one who could give him definite information. Sam Nash who lived at Granny Letcher's and knew Indian Minnie's child, declares there are marks on Carter's body similar to those he has seen on Tommy Atkins' body. Both left Granny Letcher's about the same time, and Tommy Atkins, the same as Henry Carter, looked much like a white child." Do you remember seeing that article?

A. No, I didn't tell anything——

The Court: The question is, did you remember seeing that article?

Q. That article was in the paper? A. Yes, sir.

Q. Had you talked to a representative of the newspaper about the time of the appearance of this article?

A. Yes, sir, and he misquoted me altogether and I went the next day and called his attention to it.

Q. Did you have correction made in the paper about that?

A. No, they wouldn't correct it—wouldn't re-write it; wouldn't say anything about it. I did make some statements about him coming to my house and asking some questions.

Q. Who did you go to representing the newspaper?

A. I went down to the Times office.

Q. Who did you see there?

A. And they told me to see some boy sitting back in there that wrote the article and I went back to see the young fellow at the typewriter who said Mr. Biddle wrote it; Biddle said he didn't write it, and I never could find out who wrote the article.

Q. You didn't make any statement in the newspaper for correction? A. No, sir.

Q. All you did was to go down there and see some one at the newspaper?

A. No, I didn't go to the newspaper office; some fellow was asking about Tommy Atkins and Henry Carter and different thing and I remember talking to some Times reporter.

Q. Where did you see them?

A. On the street; about the bank there.
Q. You didn't go to the Times office?
A. No, I didn't go there to give them the article.
Q. You never went there to have it corrected, did you?
A. I certainly did.
Q. Who did you see there?
A. I went there and spoke to Mr. Seckler, I think, and he said he had charge of the advertising, and I would have to go into the other room, and I went in there and tried to see the boy that I talked to on the street, and I didn't see him in there, and I asked another man sitting at the typewriter about the article and he said he didn't write it, and I said, No, I don't think that you are the boy I talked to, I talked to another boy, and he said see Mr. Biddle, and Mr. Biddle said he didn't write it.
Q. And you never did have any correction made in the paper of that article?
A. They wouldn't correct it, no, sir.

Mr. Allen: I wish to ask the witness a question or two.

The Court: Proceed.

Recross Examination by Mr. Allen.

Q. Dennis, have you a contract at this time by which you are to receive twenty-six hundred dollars or about that sum in event of recovery in this case by Mr. Page? A. No.
Q. Have you that understanding? A. No, sir.
Q. Oral or written? A. No, sir.
Q. Have you any contract other than the written contract introduced in evidence? A. No, sir.

The Court: Wasn't this all covered in cross examination?

Mr. Allen: Not about this twenty-six hundred dollars.

Mr. Cruce: He testified that he had no other agreement either expressed or implied outside of the written contract.

The Court: I think so, yes.

Mr. Allen: I won't go further in regard to that.

Q. You say Mr. Codding represented Sadie Lane in the divorce proceeding?
A. Copy of journal entry said so; I didn't know who represented her. I wasn't in court and had nothing to do with Sadie Lane.

Q. You knew about her marriage to this old soldier Lane?
A. I did when she told me.
Q. You knew subsequent to that about her marriage to James? A. I knew it when she told me.
Q. The way Codding happened to meet Sadie and become employed by her was by virtue of your letter to Codding?
A. That was——

Mr. Stuart: Your Honor, he has covered that entirely.

The Court: Never mind answering; that is all covered.

Q Was it this soldier's property that Codding was to look after when you wrote the letter to Codding?
A. Which soldier's?
Q. Lane. A. I think it was.

Recross Examination by Mr. Cobb.

Q. Wasn't a Mr. P. C. Powell, the reporter of the Leavenworth Times at this time? A. I don't know.
Q. December, 1914?
A. I don't know whether he was or not.
Q. Did you see Mr. Powell about this?
A. I don't think I know him; I might know him. I might ask if he is the son of old man William Powell.
Q. Did you know a newspaper reporter named Powell?
A. No.
Q. You didn't know him? A. No.
Q. Didn't see anybody by that name?
A. No, I might have seen somebody by that name but I didn't know him.

Witness dismissed.

And thereupon SUSIE SMITH, a witness produced on behalf of the defendant Henry Carter, being first duly sworn, testified as follows:

Direct Examination by Mr. Bell.

Q. State your name to the court. A. Susie Smith.
Q. Where do you live, Mrs. Smith?
A. I live in Leavenworth County, Kansas.
Q. How long have you lived in Leavenworth County, Kansas?
A. Well, that is my home; I have lived there more or less all my life.

Q. More or less all your life. Were you a daughter of Henry Carter? A. Yes, sir.

Q. I will get you to state whether or not that you were a school teacher? A. I was.

Q. How long did you teach school? A. Four terms.

Q. Where at? A. Missouri.

Q. Have you taught school in the last twenty or thirty years? A. No, sir.

Q. I will get you to state whether or not that you know H. Carter. A. I do.

Q. State to the court when you first saw H. Carter or about when.

A. Well, when I came home to nurse my mother in her last illness, he was there.

Q. When you came home to nurse your mother?

A. Yes, sir.

Q. In her last illness? A. Yes, sir.

Q. Do you know what year that was?

A. I don't know that I do, no, sir.

Q. Do you know what year your mother died?

A. It must have been in '91 or '92, somewhere along there.

Q. '91 or '92? A. Yes, sir.

Q. How long were you home before your mother died?

A. She was sick nearly two years or more.

Q. Two years or more, after you came home? A. Yes, sir.

Q. And she died in '91 or '92?

A. Something like that, yes, sir.

Q. Was H Carter at your father's and mother's home when you came? A. He was.

Q. Where had you been living? A. Missouri.

Q. Several years prior to that? A. In Missouri.

Q. Who with? A. My aunt.

Q. Taught school there? A. I didn't teach——

Q. What was your purpose in coming home at that time?

A. I came home to nurse my mother.

Q. Why did you come home to nurse your mother?

Q. All the other children were married and gone.

A. Yes, sir.

Q. Was your sister Adis at home or was she married?

A. She was married.

Q. Your sister Susan? A. Adis, you mean?

Q. Where was your sister Mary?

A. She was in Montana.

Q. Montana, and your mother had no one to care for her?

A. No, sir.

Q. Now, when you taught school in Missouri, how often did you come home? A. Every year within two years anyway.

Q. Every year? A. Yes, sir.

Q. Now were you home the year before you came home to take care of your mother? A. Year before?

Q. Yes, ma'am.

A. I don't remember whether I was or not.

Q. Well, was you home two years before you came home to take care of your mother? A. I think so.

Q. Was Henry Carter at your mother's home then?

A. No, sir.

Q. Did you ever leave your father's home to stay after you came home to take care of your mother? A. I did not.

Q. And have been there on that farm ever since?

A. Yes, sir.

Q. Do you know who H Carter is? A. I do not.

Q. Do you know where he came from?

A. I know where they told me he came from.

Q. Where did they tell you—— I will ask you, is your father dead? A. Yes, sir.

Q. I will ask you now, did your father tell you where he came from?

Mr. Stuart: We will object to that, Your Honor.

The Court: Well, the father is dead. Now, here was a boy living in the family. He is not a relative, according to the contention of the party now offering this evidence, he is not a relative of this Henry Carter. It doesn't appear that all witnesses who might know these facts are not available. I don't believe a case is presented here where a statement on behalf of Henry Carter, deceased, is admissible.

Mr. Cobb: If the Court please, there has been some depositions introduced in this case where the contention is made that old man Henry Carter was the grandfather of this child, and my recollection is there are some statements purporting to come from him, that are given in those depositions, concerning this boy. Of course if Henry Carter, old man Henry Carter is the grandfather of this child, his statement would be admissible under that theory of the case. I think under that theory of the case we have a right to refute those statements they have already made, by contrary statements. I think, also, where a party is brought into the family, and into the home and raised as the child of the party, as a member of the family, that any statements coming from those foster parents are to be received in likewise as if they were their real parents. • • •

The Court: Well, I have very serious doubts as to whether it is admissible or not, but of course the court knows now, if this witness is permitted to testify, or you offer proof by this witness that Henry Carter made a statement as to where he got this boy, it sustains your theory. I am going to let that statement go in over objection, and I will determine whether I will give it any weight.

Q. State where he told you the boy came from?

A. He said he got him in Leavenworth, from a woman in Leavenworth.

Q. How is that?

A. Said he got him from a woman in Leavenworth.

Q. Did he give you the name of the woman?

A. He did not.

Q. Did not. Now I will get you to state, after H Carter lived with your father there in the home, if he often went to town with your father. A. Yes, sir.

Q. About how often?

A. Well, I can't say; sometimes oftener and sometimes—

Q. How is that? A. I can't say how often.

Q. Well, sometimes as often as once a month?

A. Yes, sir, sometimes oftener.

Q. Your father hauled produce to town and sold it?

A. Yes, sir.

Q. Went in town about how often each week?

A. He didn't go—you asked me if he didn't go more than once a week?

Q. Once a week, now how often did Henry go in with him?

A. Every time he went.

Q. You had a sister by the name of Adis Carter, did you not? A. Yes, sir.

Q. Is she married? A. Yes, at that time.

Q. When did she marry, if you know?

A. In January, 1885.

Q. January, 1885. Where did she live when you came home from Missouri to take care of your mother?

A. Lived on the same 160 acres that my father lived.

Q. How is that?

A. Same 160 acres my father's farm is on.

Q. About how far from the family home?

A. Well, he lived on one 80 and she lived on the other.

Q. Your sister Adis have any children? A. When?

Q. Then? A. Yes, I think she had one.

Q. Was it a boy or girl? A. A girl.

Q. And you had a sister Susan? A. That is my name.

Q. Mary? A. Yes, sir.

Q. Were you home at the time that your sister Mary married? A. No, sir.

Q. Were you home any time that year?

A. I was home a month after her marriage.

Q. Month after her marriage. Know what year that was?

A. 1879.

Q. Tell the court why you recollect it was 1879.

A. Because I was going to Chicago then; I was chief receptress of the grand lodge.

Q. That a lodge you belonged to? A. Yes, sir.

Q. And you went to Chicago as a delegate? A. Yes, sir.

Q. Now, what month did you go to Chicago?

A. August.

Q. August, 1879? A. Yes, sir.

Q. What month was your sister married?

A. The same day she was married.

Q. In 1879? A. Yes, sir.

Q. Now, when you got home a month after, was Adis at home? A. Yes, sir.

Q. I am going to ask you, did your sister Adis at that time have any children? A. No, sir.

Q. Was she a young woman, single? A. Yes, sir.

Q. Did she appear to be in a delicate condition?

A. No, sir.

Q. Was your sister Susan still at home, sister Mary?

A. She was in Leavenworth.

Q. Did you visit her in Leavenworth? A. I did.

Q. Then, did you visit the family——

A. I visited my sister first and then went out home.

Q. How long did you stay at home at that time?

A. I left about the last of October.

Q. Last of October? A. Yes.

Q. About how old was your sister Adis at that time?

A. I don't know her age, I couldn't tell.

Q. Did you ever go to town along with H. Carter or have him go along with you? A. After he got big enough I did.

Q. Where did you go with him? A. To my sister's.

Q. To your sister's? A. Yes, sir.

Q. Where did your sister live in Leavenworth with reference to where Mrs. Yoakum lived?

A. Mrs. Yoakum is my sister.

Q. You had another sister in town, didn't you?

A. Not at that time.

Q. You went to Mrs. Yoakum's did you to take Henry to Yoakum's with you? A. Yes, sir.

Q. Or he taken you there? A. Yes, sir.

Q. About how old was he?

A. That was after my father's death, he must have been fifteen or sixteen years old.

Q. Did he stop at the Yoakum home? A. Yes, sir.

Q. Did you know Granny Letcher, known as Mary Ann Letcher? A. I knew her when I was a child.

Q. Do you remember of seeing her that day when you were at Yoakum's? A. Yes, sir.

Q. Was there anything that day said relative to Henry?

A. Yes.

Q. State what it was.

The Court: Who said it?

Mr. Bell: Mrs. Yoakum was asked this question——

The Court: You are asked to state something that was said; now, before you state what it was, state who said it.

A. My sister Mariah Yoakum.

Q. Now, tell what she said.

Mr. Allen: We object to that unless they lay the proper predicate.

The Court: What about Mrs. Yoakum, is she living?

Mr. Bell: Mrs. Yoakum is living as I understand. I was going to state to the Court that she gave her deposition here and she was asked at the time of the deposition about this conversation, she admitted of saying it—admitted of having the conversation about the boy, but not using the words that we say she used.

The Court: Was she interrogated at the time about this particular matter?

Mr. Bell: Yes.

The Court: It isn't as she said it?

Mr. Bell: Yes.

The Court: And denied saying it?

Mr. Bell: Denied saying it.

The Court: Do you agree that that is the record?

Mr. Allen: Before they asked this witness about that conversation, they would have to lay the predicate by asking her sister whether or not she said this.

The Court: I understand from counsel that that is already laid in the deposition.

Mr. Bell: That was asked Mrs. Yoakum at the time she gave her deposition.

Mr. Allen: Then, it would be only proper to ask this witness the exact question.

The Court: Yes, that is true.

Q. I will get you to state if Mrs. Yoakum didn't say at that time that that boy was out there, that he was born in a sporting house at Mary Ann Letcher's?

A. If you will let me tell it, I will tell it just as she said it.

The Court: You are asked if she made that statement.

A. No, she didn't say anything about sporting house. She said do you remember Mary Ann Letcher, I said yes. She said who is that boy playing with your girl? And I said an Indian from Indian Territory. And she says, I know him, he was born right in my house, Mary Ann Letcher's house; and I would like to get to talk to him.

Q. Did she talk to him?

A. I think not, not that I heard of.

Mr. Stuart: Your Honor, we object to that because this is double hearsay.

The Court: Yes, of course I would have to see the depositions to say just what predicate was laid here.

Mr. Bell: That is all.

The Court: It may be considered that your objection is in the shape of a motion to strike and when I get the deposition I will determine the motion.

Cross Examination by Mr. German.

Q. Who was it married in 1879?

A. Mary Elizabeth Carter, my sister.

Q. That is not Mary Yoakum? A. No, Mary Carter.

Q. Well, that is Mary Yoakum now?

A. Mary Yoakum and Mary Carter is two different people.

Q. Was Mary Yoakum your sister? A. Yes, sir.

Q. She had married long before that?

A. Before I could remember.

Q. Who was it that Mary Carter married?

A. Elias Simington.

Q. Where do they live?

A. She is living in Montana, he is dead.

Q. Adis married in January, 1885? A. Yes, sir.

Q. She was another sister of yours? A. Yes, sir.

Q. You say she was another sister?

A. She was another sister.

Q. In the fall of '79, you say you went to Chicago to attend a lodge? A. No, sir, I didn't.

Q. What was it you said? A. I said I went in August.

Q. And was gone about a month?

A. No, I didn't say I was gone a month.

Q. Well, how long?

A. Well, the session was over during that week.

Q. You were not gone so very long, and when you came back your sister Adis showed no evidence of being in a family way? A. No, sir.

Q. Now, when did Adas have her first child?

A. I don't know that.

Q. Before she married in January, 1885, she had had a child named Viola, hadn't she? A. Not that I know of.

Q. Well, there was a little girl there known as Viola that your father raised, wasn't there? A. Yes, sir.

Q. You don't know whose child that was? A. I do not.

Q. Was that child born when you were around home?

A. No, sir.

Q. You were over in Missouri?

A. I don't know anything about when the child was born. When I came there the child was there.

Q. And that child's name was Viola? A. Yes.

Q. And this child called H. was there too?

A. Both of them.

Q. When you got back from Missouri?

A. When I came to wait on my mother they were both there.

Q. Had this child Viola been there on any previous trip you had made home? A. No, sir.

Q. They both appeared at the same time so far as you know?

A. I saw them both there the same time, I don't know when they appeared.

Q. The first time you ever saw one you saw both?

A. I saw them both.

Q. They went to school out there?

A. For a short time, yes.

Q. They attended Brown School House? A. Yes.

Q. Went to school together, didn't they? A. I said yes.

Q. When was it with reference to the time your sister married, that is your sister Adas married, which was in January, 1885, that you first saw H. when with reference to that time was it that you first saw H. was it before that or after?

A. Make that plain, I want to know what you are talking about.

Q. Well, did you see H before or after your sister married? A. After of course.

Q. About how long? A. I don't remember how long.

Q. When was it you returned from Missouri to take care of your mother? A. I disremember the date.

Q. Was it sometime in the eighties? A. Yes.

Q. Sometime in the eighties, but you don't remember what year, is that right? A. That is right.

Cross Examination by Mr. Stuart.

Q. Do you know John Yoakum? A. I do.

Q. Who is John? A. John who?

Q. Yoakum? A. He is my sister's husband.

Q. And what is your sister's name who is married to John? A. Mariah Yoakum.

Q. You heard her testify in this case, did you?

A. I did not.

Q. You knew she testified, didn't you that this H. Carter was Adas' child? A. I wasn't there.

Q. But you know your sister testified that?

A. I heard she testified.

Q. And you knew her husband, John Yoakum, testified to that? A. I know that too.

Q. And you know your father's grand children testified to that? A. I heard that.

Q. And you know they all testified that they nursed this baby and it was Adas' boy? A. I heard that.

Q. This boy was named H.?

A. That is what they called him.

Q. Your father called him H.? A. Yes, sir.

Q. Called him H. because your father's name was Henry to distinguish them from Henry? A. That might be.

Q. Your father told you that these children were Adas'?

A. He did not.

Q. Did he tell you they were not Adis'?

A. He had no occasion to speak of Adas whatever.

Q. How did you account for those children being there?

A. I didn't account for them at all.

Q. Did anybody say whose they were? A. Not to me.

Q. Not to you? A. No, sir.

Q. You thought it was strange when you found those children there? A. I did.

Q. But you never asked for an explanation?

A. Yes, I asked for an explanation.

Q. What did he say about Viola?

A. Said that he got those children in Leavenworth.

Q. Viola? A. Both of them.

Q. How big were the children when you got back from this trip this first time?

A. They were small children both of them.

Q. How big, point down?

A. Something like that (indicating).

Q. How many years old would you say they were in your judgment?

A. I don't know anything about the age by looking at the children.

Q. Have you ever had any children of your own?

A. No.

Q. You have taught school, haven't you? A. Yes.

Q. And you have been all your life a school teacher?

A. No.

Q. How long have you been a school teacher?

A. Taught four terms.

Q. You have been accustomed to seeing children?

A. Yes, sir.

Q. And the law required you to put their ages down in a book?

Examination by the Court.

Q. You have some judgment as to how old Viola and H. were when you first saw them at your father's house. Now, about how old was H.?

A. He might have been five or six years old.

Q. How old was Viola? A. I couldn't tell.

Q. Was she older or younger? A. I did not know.

Q. Did she appear to be older or younger?

A. She was larger.

Q. Did she appear to be older than H.?

A. Yes, looked older.

Q. About how much older?

A. Well, I don't know, she might have been a year, and might have been younger, and might have been more.

Q. More than two years?

A. No, I think not. Something like that.

Redirect Examination by Mr. Bell.

Q. Mrs. Smith, you seen two children there when you came home to take care of your mother? A. Yes, sir.

Q. And your mother died about 1892, 1891 or 1892?

A. Yes, something like that.

Q. And you were home you say about a year or two years before she died? A. Yes.

(Witness dismissed.)

And thereupon, Court recessed until nine-thirty, A. M., June 1, 1917.

And thereafter, and on June 1, 1917, at 9:30 o'clock A. M., Court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mrs. MARY ELIZABETH SIMINGTON, a witness produced on behalf of the defendant Henry Carter, being first duly sworn, testified as follows:

Direct Examination by Mr. Johnson.

Q. What is your name? A. Mary Elizabeth Simington.
Q. Where do you live, Mrs. Simington?
A. Butte City, Montana.
Q. How long have you lived at Butte, Montana?
A. About thirty-five years.
Q. About thirty-five years; where did you live before you went to Butte? A. Leavenworth County, Kansas.
Q. Leavenworth County, Kansas. What was the name of your father? A. Henry Carter.
Q. Henry Carter? A. Henry Carter.
Q. What was the name of your mother?
A. Jeanette Carter.
Q. Jeanette Carter; where did they live?
A. Leavenworth County, Kansas.
Q. How far from the city of Leavenworth did they live?
A. About eighteen miles.
Q. About eighteen miles; what was the name of the settlement where they lived, or town? A. Springdale.
Q. Springdale. Did you ever have any brothers or sisters? A. Yes, sir.
Q. How many brothers have you?
A. I have two living brothers.
Q. What are their names?
A. James Shannon and Thomas Jefferson Carter.
Q. James Shannon and Thomas Jefferson Carter; where does Shannon Carter live now? A. In Oklahoma.
Q. You understand that he is in Oklahoma? A. Yes, sir.
Q. Where does Thomas live?
A. He lives at the home place.
Q. At the home place. Have you any sisters?
A. Yes, sir.
Q. How many? A. Three living.
Q. Three living; what are their names?

A. Maria Yokum, Susie Smith, and Adis Wright.
Q. Maria Yokum, Susie Smith, and Adis Wright?
A. Yes, sir.
Q. Which of these sisters is older? A. Maria Yokum.
Q. Which is the younger? A. Adis Wright.
Q. Adis Wright. When were you married, Mrs. Simington? A. 1879.
Q. 1879? A. Yes, sir.
Q. Who did you marry? A. Elias Simington.
Q. Where were you married?
A. At my father's home.
Q. At your father's home? Well, had you been living at your father's home all the time up to your marriage?
A. No, not all the time.
Q. Where had you been part of the time?
A. In Leavenworth city.
Q. How long was it before your marriage that you had lived in Leavenworth? A. About six weeks.
Q. About six weeks. Then where did you go after leaving Leavenworth? A. I went to Butte.
Q. No, you don't understand me; before your marriage?
A. Ask me the question again, please.
Q. Where did you go from Leavenworth before your marriage?
A. Oh, I went home.
Q. You went home? A. Yes.
Q. What did you go home for?
A. To prepare for my wedding.
Q. When you got home what brothers and sisters of yours were living at the home then?
A. My brother Tom, Thomas and my sister Adis.
Q. Your brother Thomas and your sister Adis? Now, what preparations did you make for your wedding?
A. I did some sewing and other things.
Q. Yes, well, now did you sew exclusively for yourself?
A. No.
Q. Who else did you sew for?
A. I did some sewing for my sister Adis.
Q. What sewing did you do for your sister Adis?
A. I made a dress for her.
Q. Did you complete that dress for her? A. Yes, sir.
Q. Fitted it on her? A. Yes, sir.
Q. After you were married where did you go to live?
A. I went to Leavenworth.
Q. You went to Leavenworth, what time after your marriage was it that you went to Leavenworth?
A. The same day.

Q. Was Adis at your wedding? A. Yes, sir.

Q. Was she one of the assistants at your wedding?

A. She was.

Q. Now, after you went to Leavenworth, how long did you live in Leavenworth before you went to Butte, Montana?

A. Well, about three years I think.

Q. Did you ever go back to the old home place after you left there and went to Leavenworth to live? A. Oh, yes.

Q. About how often would you go to the old home place?

A. Well, I managed to make it about once a month.

Q. About once a month. Who was living with your father and mother, that is of your brothers and sisters after your marriage? A. Thomas——

Q. When you would make these trips back home?

A. Thomas and Adis.

Q. When was the first time that you remember after your marriage that you visited the old home place?

A. Well, I think it was in November.

Q. You think it was in November? A. I think it was.

Q. Do you remember what the occasion was of your going back home? A. Thanksgiving.

Q. Who was there at the Thanksgiving?

A. My father and mother, Thomas, Adis and myself.

Q. Did your husband go back on that trip? A. No.

Q. Now, have you any children? A. Yes.

Q. How many? A. I have two.

Q. Two children? A. Living children.

Q. How many children have you had altogether?

A. Three.

Q. What was the name of your oldest child?

A. Carrie Mary Elizabeth.

Q. Where was she born?

A. She was born in Leavenworth.

Q. How long after your marriage was it before your first child came? A. Well, about eighteen months I guess.

Q. About eighteen months. Then, how long did you live in Leavenworth after the birth of your child, the birth of your first child before you went to Butte?

A. My child was a year and three months old when I went to Butte.

Q. Your child was a year and three months old when you left for Butte. Now, you said a while ago that you have been a mother. You are familiar with a woman's condition when she is pregnant, are you? A. Why, yes, certainly.

Q. I will ask you to state whether or not at the time of your marriage with Simington, Adis showed any signs of being pregnant? A. I should say not.

Q. Did she show any signs of pregnancy at the time when you went back home for Thanksgiving? A. No, sir.

Q. Did she have a child at that time? A. No, sir.

Q. Did she have any children up to the time that you left Leavenworth for Butte, Montana? A. No, sir.

Q. She did not? A. No, sir.

Q. Now, did you ever go back home from Butte? Make a trip back to Leavenworth? A. Yes.

Q. About how long after you moved to Butte, was it before you came back to Leavenworth? A. About 10 years.

Q. About 10 years? A. Yes, sir.

Q. What was the occasion of your returning to Leavenworth?

A. The sickness of your mother; what was the matter with your mother? A. She had a stroke of paralysis.

Q. What condition did you find your mother in when you got home?

A. I found her helpless in every way; speechless.

Q. Speechless. Who was living with your father and mother when you came back home?

A. Susie Carter and Thomas Carter.

Q. Now, were they all the people that were living there at your father's house?

A. No, I think there were some youngsters there.

Q. Some what?

A. I think there were some youngsters there.

Q. Some youngsters there? A. I think so.

Q. What were those youngsters—boys or girls?

A. A boy and a girl.

Q. A boy and a girl; what were the names of those two youngsters, as you call them?

A. Well, they called the boy H, and called the girl Viola.

Q. Which of those children appeared to be the older?

A. Well, they seemed to be near the same age.

Q. Seemed to be about the same age? A. Yes, sir.

Q. Which one of them was larger?

A. The boy was taller but the girl was stoutest.

Q. The girl was the heaviest? A. Yes, sir.

Q. Did you ever learn where those children came from?

A. I think I asked my father once where they got them and he said that he got them in Leavenworth.

Q. Your father said he got them in Leavenworth?

A. Yes.

Q. Was that the only information you ever got about those children? A. Yes, that is all.

Q. How long did you stay at your father's house on that trip? A. About six weeks.

Q. About six weeks; did you ever inquire of anybody else about those children? A. No, sir, no one.

Q. Why didn't you make some inquiry about those children?

A. Well, I had asked my father and I thought that was sufficient; my mother was speechless.

Q. So your care for your mother occupied all of your time is that what you meant to say? A. Yes.

Q. Now, whatever became of that boy?

A. I have seen him since I have been here.

Q. You have seen him since you have been here? A. Yes.

Q. Is he in the courtroom now?

A. Yes, there he sits over there. (Pointing to Henry Carter.)

Q. Where? A. Back there.

Q. Across the *isle*? A. Yes, that is the boy.

Q. Is that the boy that was at your father's home?

A. Yes, that is the boy.

Q. When you came back? A. Yes.

Q. You had been to Butte, Montana and lived there for ten years after your marriage? A. Yes.

Q. And you went there about three years after you married in Leavenworth, and removed to Butte? A. Yes, sir.

Q. And stayed there about ten years, and on your return saw this boy? A. Yes.

Q. About how old was this boy when you came back?

A. Oh, he seemed to be a boy about seven or eight years old.

Q. About seven or eight years old? A. Yes.

Q. About how old do you think the girl was?

A. She wasn't very much younger, I don't think.

Q. She wasn't very much younger? A. No.

Q. *Sis* you ever go back—you stated a while ago that you visited the old home during the illness of your mother; did you ever go back to Leavenworth after that? A. No.

Q. Never have been back there since? A. No.

Q. Your father is dead, is he not? A. Yes, sir.

Q. And mother? A. Yes, sir.

Q. You were not at home during the death of your father?

A. No.

The Court: What do you say was the year of your marriage?

A. 1897—1879.

The Court: In the summer time?

A. Yes.

Q. What was the name of the man that you married?

A. Elias Simington.

Q. You speak so low I can't understand you. Elias Simington? A. Elias Simington.

Cross Examination by Mr. Allen.

Q. When did you go to Leavenworth to work?

A. I worked there all my life.

Q. Your name is Mary? A. Mary Elizabeth.

Q. You had been working at Leavenworth for sometime before your marriage in 1879? A. Yes, sir.

Q. And immediately after the marriage you moved back to Leavenworth and went to work there?

A. No, I didn't go to work. I moved back.

Q. But you lived there? A. Yes.

Q. Where did you live when you first went to Leavenworth? A. On Third Street I think it was.

Q. Third and Seneca? A. Oh, no.

Q. Third and what?

A. On Third Street *it* think it was near Kiowa.

Q. That is close to Third and Seneca?

A. I don't remember the streets there at all.

Q. Mary, at that time you were not as fleshy as you are now? A. No.

Q. The Carter family to which you belonged had Indian blood in it, didn't it? A. Not as I ever heard.

Q. Had you ever heard that you are part Indian?

A. No, sir.

Q. It was the Yoakum family that had Indian blood in them?

A. Not that I ever heard. All one father and mother.

Q. Did you marry a colored man? A. Yes, sir.

Q. Your sister, Adis married a white man? A. Yes.

Q. How long did you say that you were at home before you went out to get married, I mean were you at home when you went to get married?

A. About six weeks or a month, about a month or six weeks.

Q. Had you been home recently before that time?

A. No, sir.

Q. Were you home again afterwards for sometime?

A. Well, I was home off and on after I was married, sure.

Q. You say that you made a dress for your sister, Adis?

A. Yes, sir.

Q. You know what kind of a dress that was?

A. It was light material.

Q. Was it a wrapper or close fitting dress?

A. No, it was a wrapper.

Q. She later did give birth to a child, didn't she?
A. What did you say?
Q. She later did give birth to a child before her marriage, didn't she? A. Why, no.
Q. Viola was born in lawful wedlock?
A. I don't know anything about Viola, sir.
Q. Viola is an illegitimate child?
A. I don't know anything about that.
Q. You knew Viola, though?
A. When I was there I saw her, yes, sir.
Q. She wasn't much younger than Henry?
A. Didn't look to be.
Q. How much younger, one, two, three, four, or five years?
A. I couldn't say.
Q. As much as three years? A. No, I don't think so.
Q. How much smaller than Henry was she?
A. She wasn't quite as tall as Henry but she was heavier.
Q. She was apparently younger, but you can't say how much? A. No.
Q. Who was Johnston Carter?
A. He was one of my brothers?
Q. Do you know when he was born?
A. Old a man as I am a woman; I can't say; can't tell that.
Q. James S. Carter—when was he born?
A. He is a older man than I am a woman; I don't know when he was born.
Q. Thomas is living, isn't he? A. Yes, sir.
Q. Did he ever stay around Leavenworth with you?
A. No, always home with the people.
Q. Did he ever visit you in Leavenworth?
A. No, he never come to town.
Q. Never did come to town?
A. Not as I know anything about.
Q. Mary is your name, and when were you born?
A. I can't tell that.
Q. The way you know you were married in '79 is by your marriage license? A. I can't tell even by that.
Q. Susie is a younger sister of yours, is she? A. She.
Q. Nancy Viola is a younger sister? A. She is the baby.
Q. She is the baby of your family?
A. She is the baby of my father and mother, yes.
Q. Maria Yokum was the oldest of the family, was she?
A. Yes, sir.
Q. She was the oldest girl in the family, wasn't she?
A. No, sir.
Q. Who was? A. Emily Jane.
Q. Emma Rogers? A. Yes.

Q. Is she living? A. No, she is not living.

Q. Then Maria Yokum is the oldest living girl in that family? A. Yes, sir.

Q. She is a full sister of yours? A. Yes, sir.

Q. Full sister of Adis Wright? A. Yes.

Q. You have no idea where they got Henry from?

A. I heard my father say he got him in Leavenworth.

Q. When did you go back home after you had been away for a number of years?

A. About ten years after I had left there.

Q. You went back then in about '89?

A. Ten years, whatever it would be.

Q. You hadn't been away more than ten years? A. No.

Q. You say at that time that Henry looked to be some seven or eight years old? A. He looked to be to me.

Q. And Viola from five or six? A. Five or six.

Q. They had been going to school for some time, then, had they?

A. I never heard of them going to school while I were there.

Q. And you don't know anything about who was the mother of either of those children? A. No, I don't.

Q. They were regarded, though, in the Carter family as brother and sister?

A. They were children—what is that?

Q. Regarded in the Carter family as brother and sister?

A. I never heard anyone say so.

Q. Did you ever hear that they were not?

A. Never heard anyone speak on the subject either way.

Q. Where did you live after you went back to Leavenworth after your marriage to Simington?

A. What do you mean?

Q. You say you stayed home about a month?

A. Well, I lived in Leavenworth.

Q. What part of Leavenworth?

A. North part, on Third Street. Now, wait; Fourth Street I reckon—was it—I think it was Fourth Street.

Q. You lived around in that vicinity both before and after your marriage, didn't you? A. Yes.

Q. Have you had any children? A. Yes.

Q. When was your first child born? A. Born in '80.

Q. Eighty what? A. 1880.

Q. 1880? A. Yes.

Q. What was his name? A. It wasn't a he at all.

Q. What was her name? A. Harry Mary Elizabeth.

Q. Simington? A. Yes.

Q. And your second child, did you have any more children? A. Yes.

Q. How many? A. Two.

Q. This girl was the only child that was born to you in Leavenworth? A. Yes, sir.

Q. How old was she when you left Leavenworth?

A. She was a year and three months old.

Q. And where was she born, on Third or Fourth Street?

A. Well, where I was living, whether it was Third or Fourth she was born there.

Cross Examination by Mr. Stuart.

Q. You say you were married in 1879? A. Yes, sir.

Q. Where did you go to live after your marriage?

A. I went to Leavenworth.

Q. How long did you stay there?

A. I think it was about three years.

Q. Three years? A. I think so.

Q. Well, can't you give us something positive about it, when you moved away? A. No.

Q. Well, about what year did you go away after your marriage? A. I can't give the dates.

Q. Give us an estimate, do you think it was four or five years? A. I think about three years.

Q. That would make it 1882; wouldn't it; where did you go to? A. Butte, Montana.

Q. How long did you stay out at Butte, Montana?

A. About thirty-five years.

Q. Did you go home between the time of your marriage and the time you left for Butte, Montana? A. Yes, sir.

Q. What time was it you went home?

A. I went home about ten years after I went to Butte.

Q. Well, you were at Butte then? A. Yes, sir.

Q. I mean did you go home between the time you were married and the time you left for Butte, that three years?

A. Yes, sir.

Q. You were in Leavenworth three years after your marriage? A. Yes, sir.

Q. Did you go home at all? A. Yes, sir.

Q. Well, what time did you go home?

A. I went home in November.

Q. November of the year you were married? A. Yes, sir.

Q. Did you go back again? A. Very frequently.

Q. Then, you were at home frequently between 1879 and 1882? A. Yes.

Q. Did you see any children there? A. No.

Q. No children there at all. Then, you went away to Butte, Montana? A. Yes, sir.

Q. Nobody there but your father and mother?

A. Father and mother and Tom.

Q. Tom who? A. My brother Tom, Thomas.

Q. And you went back when to see your father and mother from Butte? A. Well, about ten years later.

Q. About 1889; when you got there, you found a boy and girl there that you never saw before?

The Court: That would be 1892.

Q. You left in 1882?

Mr. Stuart: She said she came back in '89.

The Court: I thought she said ten years after she went away.

Mr. Stuart: No, ten years after you married, that is what you said? Well, the record will show.

Q. Now, when you went back you found two strange children there? A. Yes, sir.

Q. What were their names?

A. They called one H., the boy.

Q. What did they call the other?

A. They called the girl Viola.

Q. Now, your father had several grandchildren, didn't he, at that time? A. Yes, sir.

Q. Living there not far from him?

A. They were in Leavenworth part of the time I guess.

Q. Did they live out there next to him? A. They did.

Q. How many grandchildren did he have?

A. I can't tell that.

Q. Tell some of their names?

A. One was Mary, and there was Emma, and there was an Ethel and Bertha; I think one Anna.

Q. Now, when you got there and found the children—— First, how tall was the boy, just indicate?

A. Oh, he was a little fellow, just a little fellow.

Q. About how old?

A. Well, about seven or eight years old.

Q. About seven or eight years old? A. Yes.

Q. And the girl looked a little younger? A. Yes, sir.

Q. Were they going to school then?

A. I never heard of them going to school; I don't know.

Q. Do you know whether there was a school near there or not?

A. I think there was a school there some where.

Q. And you found these children there; one about seven or eight years old, and the other a little younger? A. Yes.

Q. Was your mother living then? A. Yes, sir.

Q. When did you mother die?

A. Now, I don't know the year because I wasn't there.

Q. Let's figure it out. A. '90 or '91.
Q. What? A. '90 or '91 I don't know which.
Q. Your mother died in 1890 or '91, that is your best recollection? A. Yes, sir.

By the Court.

Q. How long after you made that visit there, did she die?
A. It might have been five, or six, or eight months; I didn't get any word right when she passed away.

By Mr. Stuart.

Q. Well, about how long was it after you made that trip, was it that your mother died?
A. It might have been eight or nine months; I don't know.
Q. Eight or nine months?
A. It might have been; I don't know—I didn't get the word right away.
Q. After your father died, you girls all claimed that Henry was an illegitimate child of Adis, didn't you?
A. No, sir.
Q. And fought for the property?
A. I don't know, I——
Q. He had a little legacy in the will, didn't he?
A. I don't know anything about that.
Q. Don't you know that your sisters all fought him for the—— A. I don't know anything about that; I didn't do it.
Q. You didn't do it?
A. I didn't do it; I wasn't there.
Q. Your sister Adis, you know had an illegitimate child before she married, don't you?
A. I don't know anything of the kind.
Q. Do you know that she did not?
A. I know that she did not.
Q. Will you swear that your sister Adis never had a child before she was married? A. Yes, I will.
Q. Absolutely? A. Yes, sir.

By the Court.

Q. How old was Adis when you married?
A. I don't know; I reckon maybe about 17.
Q. About 17? A. Yes.

Cross Examination by Mr. Hanford.

Q. Between the time that you were married and the time that you went out to Butte, that is in the three years that you were in Leavenworth, you say you visited your father's place frequently? A. Yes, sir.
Q. Where did you visit—at his house? A. Oh, yes.

Q. On the farm? A. Yes.
Q. Visit any place else? A. No.
Q. Just went to the home? *A.* How long would you stay?
A. Well, sometimes longer than others; sometimes I would stay a day or two, and sometimes I would stay a day.
Q. Sometimes a day and sometimes a day or two?
A. Yes, and sometimes a week.
Q. You just stayed there at his house?
A. Right at his house.
Q. Didn't go to see anybody else? A. No.
Q. You were just out there to see your father and mother?
A. To see my father and mother.
Q. You helped around the house, did you? A. Yes.
Q. Did you visit any of your sisters or anybody else?
A. No, I didn't.
Q. You were just out there to see your father and mother?
A. Yes.
Q. Didn't go to see Maria, or any of the others?
A. No, I didn't.
Q. You say no? A. No, sir, I didn't.

Recross Examination by Mr. Allen.

Q. Did you know Granny Letcher in Leavenworth?
A. No, I don't.
Q. Did you know Aunt Molly, the fortune teller?
A. No, sir.
Q. Did you know Mr. Crilly, the livery stable man?
A. No, sir.
Q. You knew who he was though? A. No, sir.

Redirect Examination by Mr. Johnson.

Q. What class of people were your father and mother's neighbors who lived around them?
A. Why, they were white people.
Q. All white people? A. Yes.
Q. There were no colored people living in that settlement except your father?
A. I don't know of any; can't remember of any living around there.

(Witness dismissed.)

And thereupon, ADAS WRIGHT was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Johnson.

Q. What is your name? A. Adas Wright.
Q. Where do you live?
A. I live in Leavenworth County.
Q. Leavenworth County, Kansas? A. Yes, sir, Kansas.
Q. How long have you lived in Leavenworth County, Kansas? A. About all my life.
Q. About all your life? A. Yes, sir.
Q. Who were your parents? A. Sir?
Q. What were the names of your parents?
A. Henry Carter and Janetta Carter.
Q. Henry Carter and Janetta Carter? A. Yes, sir.
Q. Where did they live in Leavenworth County?
A. Near Springdale and McLouth.
Q. How far is that from the City of Leavenworth?
A. They call it eighteen miles.
Q. Did you ever have any brothers and sisters?
A. Yes, sir.
Q. How many brothers did you have?
A. I have Shannon Carter and Thomas Carter.
Q. They are both living? A. Yes, sir.
Q. Where does Shannon Carter live?
A. He lives in Muskogee.
Q. Muskogee? A. No, Boynton.
Q. Where does Thomas live?
A. He lives at the old home place.
Q. How many sisters have you? A. Three.
Q. What are their names?
A. Mariah Yoakum, Susan Smith, and Mary Elizabeth Simington.
Q. Which of your sisters is the oldest, which is the eldest sister? A. Mary Yoakum.
Q. Where does Mrs. Yoakum live?
A. She lives in Leavenworth City.
Q. Where does Susan Smith live?
A. She lives in Leavenworth County at the old home place.
Q. Where does Mary Simington live?
A. Butte City, Montana.
Q. Butte City, Montana. Where were you living when Mary Elizabeth married?
A. I was living at home with my father.
Q. Living at home with your father? A. Yes, sir.
Q. At that time, who were the members of your father's family? A. My mother and father and Tommy, Thomas.
Q. Your mother, father, and Thomas? A. Yes, sir.
Q. And yourself? A. Yes, sir.

Q. Do you know when your sister Mary was married?
A. Yes, sir, I was at home.
Q. You were at home? A. Yes, sir.
Q. Had she been living at home continuously before her marriage?
A. No, sir, she worked out in Leavenworth but she come home once in a while.
Q. How long was it before her marriage that she came home? A. Well, it was about six weeks.
Q. About six weeks? A. Yes, sir.
Q. What did she come home for?
A. To prepare for the wedding.
Q. To prepare for the wedding? A. Yes, sir.
Q. What did she do?
A. She made clothes for herself and she made my dress to stand up with her and cleaned house and prepared for the wedding.
Q. You say she made you a dress? A. Yes, sir.
Q. She was married at your father's house, was she?
A. Yes, sir.
Q. How long did she stay there after her marriage?
A. She went away the same day.
Q. Went away that day? A. On Sunday.
Q. Where did she go to? A. Went to Leavenworth.
Q. Went to Leavenworth? A. Yes, sir.
Q. Now, after her marriage when was the next time that you saw your sister?
A. Well, I expect two or three weeks probably, might have been a month.
Q. Two or three weeks or it might have been a month?
A. I don't remember just to the day how long it was.
Q. How long did your sister stay in Leavenworth before she went to Butte? A. Oh, she was there over two years.
Q. She was there over two years? A. Yes, sir.
Q. During the time that she stayed at Leavenworth, would she come back to the old home place? A. Yes, sir.
Q. Visiting? A. Yes, sir.
Q. Did you ever go to Leavenworth to visit her?
A. Yes, sir, stayed with her a week at a time.
Q. Stayed with her a week at a time. Do you remember how often she visited your father's home during the year that she was first married?
A. She come quite often until about the last and she wasn't able to come then and we went to see her.
Q. Then you all went to see her? A. Yes, sir.
Q. Did she give birth to any child before she left Leavenworth for Butte Montana? A. Yes, sir, one child.
Q. One child? A. Yes, sir.

Q. About how old was this child when she moved to Montana?

A. Well, it was a little over a year old, I don't remember just how much.

Q. A little over a year old? A. Yes, sir.

Q. Now, you are married, are you not? A. Yes, sir.

Q. Is your husband living? A. He is dead.

Q. He is dead. When did you marry?

A. I married in 1885.

Q. In 1885? A. Yes, sir, the 6th day of January.

Q. 6th day of January; what was the name of your husband? A. John Wright.

Q. Where were you married?

A. I was married in St. Joe, Missouri.

Q. Married in St. Joe, Missouri. Have you any children?

A. I have seven.

Q. Seven children; what is the name of the oldest of your children? A. Nettie.

Q. Nettie; how long after your marriage, was it, before Nettie was born? A. Well, it was about two years.

Q. About two years? A. Yes, sir.

Q. Where were you living at the time Nettie was born?

A. I was living on the same 160 acres that my father lived on; the place was divided in two 80's.

Q. Lived on one quarter section? A. Yes, sir.

Q. Did you ever know a boy by the name of H Carter?

A. Yes, sir.

Q. Just a moment; let me go back to the children. What are the names of the rest of your children?

A. Nettie is the oldest; then Henry, Maude, Johnnie, Ada, Gertrude and Willie is my family.

Q. They are living, are they? A. Every one.

Q. Now, where did you first see this boy H Carter?

A. I seen him at my father's house.

Q. You saw him at your father's house? A. Yes, sir.

Q. How long after your marriage, was it, before you saw this boy at your father's house?

A. Oh, it was quite a while, several years—I had one child that was beginning to walk around when I first seen him there at my father's.

Q. What was the name of that child? A. Nettie.

Q. Nettie; and this child was able to walk around when you first saw this boy? A. My child, yes, sir.

Q. About how old did this boy appear to be when you first saw it?

A. Well, he was—I expect five or six year old and maybe more— I can't say——couldn't say.

Q. Was there any other child there at your father's house besides this boy? A. When he came there?

Q. Yes. A. No, sir.

Q. There was not? A. No, sir.

Q. Was there later any other child?

A. Yes, sir; in a short [] my mother and father went and got a girl.

Q. Went and got a girl? A. Yes, sir.

Q. What is that girl's name? A. Viola.

Q. Now, with reference to the boy, how old did the girl appear to be?

A. Well, I don't hardly know; she was a pretty good sized girl; she wasn't very tall, but she was broad but she appear- to me to look at her, that she was older than the boy.

Q. You thought that she was older than the boy?

A. Yes, sir, but I don't know this.

Q. Now, this all occurred after your first child was able to walk? A. Yes, sir, around the floor.

Q. And your first child was born about two years after your marriage? A. Yes, sir.

Q. Mrs. Wright are you—did you ever give birth [] a child before you were married? A. No, sir, I didn't.

Q. Are you the mother of H Carter?

A. No, sir, I am not.

Q. Are you the mother of Viola?

A. No, sir, I told you my children, one and all.

Q. Did you ever learn where this boy H Carter was brought from? A. Only what I heard.

Q. From whom did you hear?

A. Mary Ann Letcher's house.

Q. From whom did you hear this talk?

A. My mother and father were talking.

Q. Your mother and father are both dead now, are they?

A. Yes, sir, they are both, but I have heard my father say so.

Q. Now, you say that Maria Yokum is your sister?

A. Yes, sir.

Q. She has some children, hasn't she?

A. Yes, sir, quite a number of children.

Q. Quite a number of children? A. Yes, sir.

Q. Do you know the names of Maria Yokum's children at the time when you first saw this boy H at your father's house?

A. Yes, sir.

Q. Name them, please.

A. Well, Mary, and Emma, Lilly, Ethel, Bertha, and Annie.

Q. Now, did either of those children of Mrs. Yokum ever

live at your mother's house during the time that you lived at home? A. No, sir.

Q. They did not? A. They did not.

Q. Did they ever come over there to do the house work while you lived at your father's? A. No, sir, they did not.

Q. Did Mary Yoakum ever attend you during the birth of any of your children?

A. No, sir, she never was at the house when I was sick any time in my life.

Q. Who attended you when you gave birth to your first child? A. My mother.

Q. When did your mother die?

A. She died in 1881 or 1882, I can't hardly remember.

Q. How long after the death of your mother was it until your father died? A. He died in 1902.

Q. 1902? A. Yes, sir.

Q. Did your father ever make a will? A. Yes, sir.

Q. Did you know that he had made a will before his death?

A. No, sir, I did not.

Q. Who wrote that will for your father?

A. The banker, Charlie Steeper.

Q. You were not present? A. No, sir.

Mr. Johnson: All right, I will withdraw that. I agree that it is not competent.

Q. You were present when this will of your father's was read? A. Yes, sir.

Q. State if you were present at the reading of the will?

A. You mean who was there at the house?

Q. Yes? A. Charlie Steepers, Dan Blair.

Q. Who else?

A. Lawyer G. .....; Mary Yoakum, Susan Carter, Shannon Carter, Mary Simington, my husband and myself and H. Carter and Viola Carter.

Q. H. Carter and Viola Carter? A. Yes, sir.

Q. What disposition did your father make of his property?

A. Well, he willed them all twenty acres; and he willed Viola one hundred dollars and H. Carter, he willed him twenty acres.

Q. Now, how did the children of the family appear to take this will?

A. None of them said anything but Mariah Yoakum.

Q. None of them said anything but Mariah Yoakum?

A. That was all.

Q. What did she say?

A. Well, she said she didn't see how come her father to give H. Carter twenty acres and no kin to him and leave out

his own grand-children, and him a bastard out of a sporting house. That is the way she spoke the words.

Mr. Stuart: This is objectionable, your Honor, but we will let it go in.

The Court: Well, I didn't hear any objection.

Mr. Cobb: I will state to the Court in that connection, that the impeaching question is asked Mariah Yoakum in her deposition.

The Court: This goes in without exception anyhow; I will find that when I come to examine the records.

Mr. Johnson: That is all.

Cross Examination by Mr. Allen.

Q. You say you have always understood——

A. What is it?

Q. You say you have always understood that Henry was an illegitimate child of some one?

A. Yes, sir, I have always heard it.

Q. He was six or seven years old when you first saw him at your father's home?

A. I don't know his age, I just supposed he was about that.

Q. Viola was there then? A. When I first seen him?

Q. Yes. A. No, sir, she was not.

Q. Viola, you say was older than Henry?

A. I don't know, but she looks to be older, I don't know either one of their ages.

Q. Did you understand that your father got them from the same place? A. I never heard that.

Q. Well, they have always been regarded as brother and sister?

A. I never heard anybody call them brother and sister.

Q. Do they look alike? A. They don't to me.

Q. Your sister lived a while in Leavenworth?

A. Which one?

Q. Mary?

A. Yes, sir, she lived there over two years after she was married.

Q. And you stayed there with her some?

A. Part of the time I would go there and visit her.

Q. And where were you living?

A. I was living at home at my father's at that time.

Q. And *when* were you staying when you would go and visit her? Where was she staying?

A. She lived at her own house in Leavenworth.

Q. But before she was married?

A. Oh, she worked out for different people.

Q. And you would go there where she was working and visit her? A. And visit her, yes, sir.

Q. She stayed right close to Seneca street, didn't she, down on Third?

A. Oh, I don't know; she worked at different places, I don't remember the names of the streets.

Q And Henry Carter you say was born in Leavenworth?

A. Yes, what I heard.

Mr. Allen: I really never looked at these two people to see whether they looked alike or not, Your Honor; I would like to see them together.

The Court: Well, when we get through with the examination, I am going to have them sit down together, for my information and examination.

Cross Examination by Mr. Stuart.

Q. You say you heard the will read? A. Yes, sir.

Q. And when you heard it read, there was a clause in there in which your father gave his grandson, Henry Carter, so many acres of land, didn't he?

A. He didn't call him no grandson.

Q. Didn't he? A. No, sir, nobody else didn't.

Q. Didn't the will read this way: "I give *an* bequeath to my grandson H Carter for his sole use, the following described land."

A. Yes, but Charlie Steeper was the man that wrote that will and said that.

Q. No matter about Charlie Steeper, didn't that will say—— A. I never heard it.

Q. You were there, weren't you? A. Yes, sir, I was.

Q. You heard it say to my grandson?

A. I might have but I don't remember it.

Q. You thought it strange when he said my grandson, didn't you? A. I might have but——

Q. Who did you hear talking about it?

A. The family, Mary Yokum said she didn't see why father give him, H, twenty acres and left out her children.

Q. Because he was a bastard? A. Yes, sir.

Q. Your sister Maria said right there that he was your father's grandson but he was a bastard?

A. She didn't say it that way; I spoke it as near as I could remember her say[ing] it.

Recross Examination by Mr. Allen.

Q. Are you a member of the colored race; you are a colored woman? A. Sir.

Q. You are a member of the colored race, are you?

A. Yes, sir.

Q. Your father, of course, was a colored man?

A. Partly.

Q. Part Indian?

A. Well, he is Irish—Scotch Irish, partly. You mean my father?

Q. Yes. A. Yes, sir, he is Scotch Irish.

Q. Was there any Indian blood in your family?

A. Not that I know of.

Q. Did you ever hear of that?

A. I don't know as I ever heard it.

Q. Haven't heard it? A. Not that I remember of.

Q. But he was assoiated with the colored race?

A. Yes, sir.

Recross Examination by Mr. Stuart.

Q. Did you ever know a man, when you was a young girl, there with your father, by the name of Kessner, or Kessenburg, or something like that—Kessenger?

A. No, sir, I never heard of anybody by——

Q. Do you know the name under which H Carter married when he was married?

A. No, sir, I don't know anything about that at all.

Q. You didn't know a young man near your father's place there name of Kessenger or Kessingler, or Kesselring?

A. I never did.

Q. Did you ever hear of a name anything like that—a person who lived in Leavenworth—a young man?

A. No, sir, I didn't.

Q. You don't know what name Henry married under?

A. No, sir, I didn't.

The Court: (To the witness:) I wish you would take off your hat just a minute (witness removes hat); now just sit down in that second chair back there; just sit there a little bit. Henry Carter, I wish you would take that chair right beside this witness over there; sit down there for a little while. (Henry Carter takes chair next to witness.) Go on and examine this witness.

Mr. Cobb: We offer in evidence, the defendant Carter's Exhibit A-3, being a certified copy of the marriage license and certificate of marriage of Elias Simington and Mary Carter.

The Court: It may be admitted; I suppose the only purpose is to establish the date, isn't it?

Mr. Cobb: Yes, sir; shows the 10th day of August, 1879.

Mr. Stuart: I think it is conceded in the record already.

The Court: It may be conceded that the date of this marriage of the witness Simington with her husband, was the 10th day of August, 1879.

Mr. Cobb: Yes, sir.

And thereupon, T. W. BELL was called and sworn as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. What is your name? A. T. W. Bell.
Q. Where do you live? A. Leavenworth, Kansas.
Q. How long have you lived in Leavenworth?
A. Past thirty years.
Q. What business are you engaged in there?
A. Practice law.
Q. Practicing law; how long have you been a practicing lawyer in Leavenworth? A. Past thirty-one years.
Q. Right there in Leavenworth all the time?
A. Thirty years in Leavenworth.
Q. Where did you practice before that?
A. In Oscaloosa, Iowa.
Q. Have you any connection as an attorney in this case?
A. Yes, sir.
Q. You are one of the attorneys representing the Carter interest? A. Yes, sir.
Q. You are a colored man? A. Yes, sir.
Q. I will ask you if you know George Crilly? A. I do.
Q. Of Leavenworth, Kansas; I will ask you if you had a conversation with him in the presence of Coody Johnson and R. E. Martin in your office in Leavenworth along about the latter part of 1915? A. Yes, sir.
Q. I will ask you if in that conversation if Mr. Crilly didn't state——

Mr. Stuart: Who did?

Q. If Mr. Crilly didn't state, or state in substance, that his judgment was that Carter—referring to the defendant Carter—was the boy that he had known as Commidore; that

he had told Clarence Turner that he was and that he had not made up his mind that he was not the boy; that he had talked to Carter on several instances about things that happened when Carter was a boy; and that Carter seemed to have a recollection of it, and that convinced him more than ever that Carter was the boy he had known as Commidore?

A. That was the statement.

Q. I will ask you if you know Dennis Jones? A. I do.

Q. How long have you known Dennis Jones?

A. About thirty years.

Q. He is also an attorney there in Leavenworth?

A. Yes, sir.

Q. A colored attorney? A. Yes, sir.

Q. Did you ever have a conversation with Dennis Jones in State District Court Room in Leavenworth, Kansas, in the spring of 1915? A. I did.

Q. I will ask you if in that conversation he didn't make this statement or this statement in substance, that he, Jones, wouldn't say that Carter was not the boy Tommy Atkins that he saw at Granny Lecher's?

A. He made that statement, yes, sir.

Q. I will also ask you if you also had a conversation with him in the Federal Court Room in Leavenworth, Kansas, in the spring of 1916? A. I did.

Q. I will ask you if he didn't make this statement or this statement in substance in that conversation: That if he had been permitted to have gone ahead he would have found the real Thomas Atkins and for you folks—speaking to you—to go ahead as you are; you are on the right track?

A. He made that statement to me.

Q. And I will ask you if he didn't also in that conversation say that you had taken up Carter where he dropped off and that you were wise in doing so? A. Yes, sir.

Q. I will ask you if you had a conversation with Dennis Jones at Leavenworth, Kansas, during the year 1915, shortly after the depositions were taken by Mr. Penick as special examiner in this case?

A. I did. I would suggest that was in 1916.

Q. In which Dennis made this statement or this statement in substance: That he was unable to say that this boy, referring to Carter, was not the Thomas Atkins that was at Granny Letcher's? A. He did, yes, sir.

Cross Examination by Mr. Stuart.

Q. He made that statement. At this time they were taking depositions in this case up there? A. Yes, sir.

Q. And Dennis Jones, was he employed by anybody at that time?

A. The first time I spoke to him they were not taking depositions.

Q. But the last time they were taking depositions?

A. Yes, sir.

Q. Was he employed by anybody at the time?

A. I think he told me that he was employed by somebody down here.

Q. Who was it?

A. I do not know; because he came into the Court room and it was objected to because he wasn't representing anybody and I think you telegraphed and had him filed as attorney for somebody, I don't know who.

Q. But you knew he was connected with the case at that time? A. I knew he had been working, yes, sir.

Q. And you knew you and he were working on opposite sides?

A. No, sir, because I had not been in the case only in February or March, 1915.

Q. But this conversation that you had with them was in 1916? A. Yes, sir.

Q. And you knew at that time that Dennis and you were working on opposite sides of the case, of course?

A. Yes, sir, I knew he wasn't working with me.

Q. And you knew also at that very hearing, this woman's sister here had sworn that Henry Carter was her child, didn't you? A. No, not at that hearing.

Q. Well, that was 1916, last year, wasn't it?

A. It was 1915, if I recollect right.

Q. Well, you knew that they had sworn it, didn't you?

A. Yes, sir.

Q. That they had sworn it? A. Yes.

Q. When Dennis told you that? A. Yes, sir.

(Witness dismissed.)

And thereupon, HENRY THOMAS CARTER, a defendant herein, and duly called as a witness in his own behalf, being first duly sworn, testified as follows:

Direct Examination by Mr. Cobb.

Q. State your name? A. Henry Thomas Carter.

Q. Where do you live? A. Sir?

Q. Where do you live? A. Leavenworth, Kansas.

Q. Are you the defendant Henry Carter in this case?

A. Yes, sir.
Q. One of the defendants in this case? A. Yes, sir.
Q. Do you know how old you are, Henry?
A. No, sir, I don't.
Q. Where is the first place you ever remember of living?
A. Mrs. Letcher's.
Q. In what place? A. Leavenworth, Kansas.
Q. Do you remember what street it was on? A. Yes, sir.
Q. What street was it? A. Seneca Street.
Q. Sir? A. Seneca Street.
Q. What kind of a looking woman was Mrs. Letcher?
A. She was a black woman.
Q. What size?
A. Well, she was pretty good sized woman.
Q. Member of the negro race? A. Yes, sir.
Q. Was she also known as Granny Letcher?
A. Mrs. Letcher is all that I know.

Mr. Stuart: Your Honor, we object to his——

The Court: Don't lead the witness.

Mr. Cobb: It is not my intention, Your Honor.

Q. What other members of the family were there at that time that you remember?

A. Sam Nash and Walter Banks, Jim Mayo and a girl named Hattie Nash.

Q. Which was the largest of those—were these all children? A. Jim Mayo was a good big fellow.

Q. About what age did he appear to be?

A. Oh, I don't know; he was a big——

Q. A good sized boy? A. Yes, sir.

Q. Who was the next larger of the boys?

A. Walter Banks.

Q. And who was the next in size? A. Sam Nash.

Q. Was Sam Nash larger than yourself? A. Yes, sir.

Q. Do you remember the other places around Mrs. Letcher's?

A. Well, there was a barn across the street; a livery barn.

Q. Do you remember whose barn that was?

A. Mr. Crilley's.

Q. Mr. Crilley's. Were you large enough to play with the boys in the neighborhood before you left that place?

A. Yes, sir.

Q. I wish you would state to the court what you remember about that; when you played and who you played with.

A. Well, we played around on the street and would go over to Mr. Crilley's barn, and around the house there.

Q. Do you remember any other person around there; a child or man in the neighborhood?

A. Mr. Crilley had a boy and he had a fellow stayed around the barn—a one-armed man, Tom Dailey.

Q. Was Tom Dailey a man or a boy?

A. Well, he was big fellow; a man, I guess.

Q. One armed man? A. Yes, sir.

Q. About how big were you, Henry—just one other question: Do you remember what you were called when you stayed with Mrs. Letcher? A. Tommy.

Q. Called Tommy?

A. Yes, sir, sometimes they would call me Commodore.

Q. How big were you when you left Mrs. Letcher's place?

A. Oh, I was a little fellow.

Q. Well, were you walking around?

A. Yes, sir, I played around there at that time.

Q. Wearing pants? A. Yes, sir.

Q. Where did you go from there, Henry?

A. Out in the country.

Q. To what place? A. Mr. Carter, Henry Carter.

Q. Who took you out there?

A. Mr. Carter took me out in a wagon.

Q. Where were you raised from then on, Henry?

A. Out at the Carter farm.

Q. By old man Carter? A. Yes, sir.

Q. After you went to the Carter place, were you ever back to Leavenworth?

A. Yes, sir, I went back every once in a while with him in the wagon.

Q. Were these trips—— How frequent were these trips?

A. Well, I went back with him every couple of weeks for a short time afterwards.

Q. Well, after that were you—— How long would you stay upon these trips usually?

A. Sometimes a day and maybe a day and a night.

Q. Well, you say you made these trips back there for a little while? A. Yes, sir.

Q. Did you stop making them?

A. Yes, sir, I started to school then, then I quit going to town.

Q. Well, after school was out from year to year, did you afterwards go back to Leavenworth? A. No, sir.

Q. You didn't go back there? A. No, sir.

Q. In other words, after the first year you were out at Carter's, you didn't go back to Leavenworth visiting any more, is that correct?

A. Not until I got pretty good size.

Q. Well, were you back again then? A. Yes, sir.

Q. Well, how big were you?

A. Well, I was a good big fellow then.

Q. I wish you would indicate—— Ten or twelve or fourteen years old, about that age?

A. Well, I guess I was somewhere along in there.

Q. What did you do when you went back on these trips?

A. Went to Mrs. Yoakum's.

Q. How long did you usually stay on these trips?

A. Just a day.

Q. A day and a night, or a day and a night? A. Yes, sir.

Q. Now, Henry, on these trips back to Leavenworth, did you ever see Mrs. Letcher any more? A. One time.

Q. One time? A. Yes, sir.

Q. Where was she then? A. At Mrs. Yoakum's.

Q. The first visit you made back there that you referred to?

A. I seen her then, yes, sir, when I was a little fellow.

Q. You saw her then. You say you started to school, how long was it after you went out to the Carter place was it that you started to school?

A. I don't remember, it was quite a while.

Q. A year or two?

A. Yes, sir, I guess it was a year or two.

Q. Who was the—— What was the name, if you remember of the first teacher you went to school to? A. Miss Davis.

Q. Miss Anna Davis? A. Anna Davis.

Q. How long did you go to her? A. Three days.

Q. What was the reason you didn't go any longer?

A. Well, she said I was too young. I didn't know anything at all and she said I was too young.

Q. And you only went to her three days? A. Yes, sir.

Q. What was the name of—— Did you go any more that same term? A. No, sir.

Q. What was the name of the next teacher you went to?

A. Miss Mamie Byron.

Q. How long did you go to her?

A. I went through the warm weather in the fall and in the spring.

Q. Do you remember what you studied when you went to school to her?

A. Yes, sir, she learned me to make my A. B. C.'s and figures.

Q. Did you know your letters or how to count when you started to school? A. No, sir.

Q. Do you know what year you went to Miss Byron?

A. No, sir, I don't remember.

Q. Don't remember. Who was the next teacher you went to Henry?

A. Mr. Hall, Jesse Hall—— No, I will take that back, it was Miss Denny, Mary Denny.

Q. Did you go the whole term to Miss Denny?

A. Yes, sir, through the warm weather.

Q. Through the fall and winter. Do you remember what you studied when you went to school to her?

A. Well, it was nearly the same as when I went to Miss Byron.

Q. Had—— Well, did you learn your letters the first term? A. Yes, sir, I had me a little primer then.

Q. A little primer? A. Yes, sir.

Q. Who was he next teacher you went to school to?

A. Mr. Jesse Hall.

Q. Did you go the whole term to him? A. Yes, sir.

Q. What were your studies the term you went to Mr. Hall?

A. A little primer and a little arithmetic. First reader and a little arithmetic.

Q. You went the whole term? A. Yes, sir.

Q. Did you study your first reader, use your first reader the whole term? A. Yes, sir.

Q. You were not promoted to the second grade during that term? A. No, sir.

Q. To whom did you next go? A. To Mr. Joe Kelsey.

Q. Did you go the whole term or not to him?

A. Yes, sir.

Q. You went the whole term? A. Yes, sir.

Q. What did you study the terms you—the term you went to him?

A. I bought me—— I finished up with Mr. Hall, that little first reader; the next year I bought me a second reader.

Q. That is when you went to Mr. Kelsey? A. Yes, sir.

Q. After you went to Mr. Kelsey, who did you next go to?

A. Mr. Jesse Hall.

Q. That was the second time you had gone to Mr. Hall?

A. Yes, sir, he taught two terms.

Q. Not consecutively?

A. No, sir, Mr. Kelsey was between.

Q. What were your studies during this last term to Mr. Hall? A. Well, I was in the third reader then.

Q. Did you study anything else besides the third reader?

A. I had me a little arithmetic and speller.

Q. Did you go to school any more after you went to Mr. Hall this time? A. No, sir.

Q. I will ask you, Henry, if you told these teachers your age during the time you went to them?

A. No, sir, I did not.

Q. Did you know your age? A. No, sir, I did not.

Q. You know Adis Wright? A. Yes, sir.

Q. When was the first time that you remember of seeing Adis Wright? A. When I was living with Mr. Carter.

Q. When you was living with Mr. Carter? A. Yes, sir.

Q. How long was it after you were taken out to the Carter home before you saw her?

A. Well, I don't know exactly; it was a short time.

Q. Was she living in the Carter home at that time?

A. No, sir, she was not.

Q. I wish you would just state to the court the circumstances under which you saw her?

A. Mrs. Wright and Mr. Wright, and a child came over to visit the Carters, and I seen them there.

Q. You saw them there? A. Yes, sir.

Q. You have seen her off and on ever since that time?

A. Yes, sir.

Q. Where was she living at that time?

A. Living on the 80 acres adjoining the Carter farm on the east.

Q. How long did you continue to live in the Carter family, Henry? A. I lived there up until his death.

Q. Who else lived in the Carter family at this time?

A. Tommy Carter, Susie Carter and Viola Carter.

Q. Now, with reference to Viola, when did you first see her, Henry? A. She was at the Carter home when I seen her.

Q. Was she there when you went there?

A. Now, I don't remember whether she was there or not but she was there shortly afterwards; I remember seeing her there.

Q. Old man Carter and his wife are both dead?

A. Yes, sir.

Q. Did you ever have a conversation with old man Carter in which the question of who your mother was was mentioned?

A. I asked him several times who my parents were.

Q. Do you know who your mother was?

A. No, sir, I don't.

Q. What did old man Carter tell you when you asked him this question?

A. Oh, he says your mother is an Indian woman; he says you are my boy now.

Q. Did he ever tell you any more than that? A. No, sir.

Q. He never told you what your mother's name was?

A. No, sir.

Q. After the death of old man Carter what did you then do? A. I helped to make one crop after he died.

Q. On the old Carter place? A. Yes, sir.

Q. Where did you then live? A. At the Carter farm.

Q. But did you continue to live at the Carter farm then?

A. Yes, sir, I made one crop after he died.

Q. Then where did you go?

A. I went to Leavenworth, Kansas.

Q. What did you do there?

A. Well, I stayed in a hotel two weeks, and then I went to Fort Leavenworth to join the Army.

Q. Did you join the Army at the Fort? A. No, sir.

Q. Did you make application? A. Yes, sir.

Q. I wish you would state to the court why you were not permitted to join the Army?

A. Well, I made application and I was examined but I was alright in every way but my age. They said that I looked too young; asked me my age and I told them I was 21, and the man told me he said you may be 21, but you look too young.

Mr. Cruce: If the court please, it occurs to me that what was said——

The Court: Yes, it is hearsay evidence; it would be the judgment of somebody on the outside, if material at all, the court would have to determine.

Mr. Cobb: I think so; I thought he might state why.

The Court: Well, because in the judgment of the officers he was too young.

Q. Where did you then live, Henry?

A. I went back then to the Carter farm.

Q. How long did you stay there?

A. I stayed there I don't know how long; a short time.

Q. Well, where did you next go to live? I mean; I don't care about these little trips of a week or two.

A. Well, I came to Indian Territory next.

Q. What was the object of your visit to the Indian Territory? Why did you come down here?

A. Well, I had always heard my mother was an Indian woman and I thought I would come down here and maybe I could find some trace of her some way.

Q. Where did you go? A. To Okmulgee.

Q. How long did you stay in Okmulgee?

A. Three or four days.

Q. Where did you go then? A. Muskogee.

Q. How [] did you stay here at Muskogee?

A. I stayed here a little better than a year.

Q. Something more than a year? A. Yes, sir.

Q. Were you making any investigation as to your parentage during that time? A. Yes, sir.

Q. What did [] do; what investigation did you make?

A. Well, I would always [] anybody that I would see that I thought would tell me anything about where my parents were, my mother was.

Q. Did you make any inquiry of the Dawes Commission?

A. I went one time, yes, sir.
Q. While you were at Muskogee were you married?
A. I married in Muskogee, yes, sir.
Q. During that trip? A. Yes, sir.
Q. Whom did you marry?
A. I married Lela Shoemaker of Webbers Falls.
Q. Under what name did you marry?
A. Henry Kessinger.
Q. Why did you use that name Kessinger?
A. Well, my friends around McLouth, Kansas, they used to tell me they wouldn't go by that name, they said it was a nigger name, so when I got away I changed my name.
Q. That was the only reason you had for changing your name? A. Yes, sir.
Q. Did you marry by license?
A. Yes, sir, I bought a license at Muskogee.
Q. A certified copy of which has been introduced in evidence in this case?
A. Well, I haven't seen this, I don't know.
Q. Do you remember what age you gave yourself as being when you applied for license?
A. No, sir, I don't remember.
Q. Do you remember what age——
A. Yes, I remember now. My wife was twenty-two and I believe I gave twenty-four if I ain't mistaken.
Q. Well, did you know your age at that time?
A. No, sir, I didn't.
Q. Why did you give your age as being twenty-four years old then?
A. Well, I wanted to be a man and she was twenty-two; I thought I would make it twenty-four, be older than she was.
Q. Now, you lived in Muskogee here about a year. What business were you engaged in at that time, if any?
A. I waited table in a hotel.
Q. What hotel?
A. Hoffman House on Third and Broadway.
Q. Who ran that place?
A. Anderson; the man who runs the garage over here across the street.
Q. Now, when you left Muskogee, where did you go?
A. Well, I went to Fayetteville, Arkansas, during that year one trip.
Q. How long did you stay at Fayetteville?
A. Three or four days.
Q. You just made a visit over there. I don't mean the little side trips?
A. Well, I left here and went back to Leavenworth, Kansas.

Q. How long did you stay at Leavenworth?
A. I made one crop.
Q. Made one crop? A. Yes, sir.
Q. Whereabouts? A. Out at the old Carter farm.
Q. After you left the old Carter farm that second time, where did you go? A. I come back to Indian Territory.
Q. Where abouts? A. South McAlester.
Q. How long did you stay at McAlester?
A. About two weeks.
Q. Where did you go from there?
A. Went back to Leavenworth, Kansas.
Q. What was the object of your trip to McAlester?
A. Well, I began to get acquainted with different parties and from different points and I would go back from one to the other thinking maybe I would find trace of some one that would know my mother.
Q. Did you make any inquiries at McAlester?
A. Yes, sir.
Q. With any results? A. No, sir.
Q. Where did you go from McAlester then?
A. Went back to Kansas.
Q. Leavenworth? A. Yes, sir.
Q. How long did you stay at Leavenworth on that trip?
A. About six months.
Q. You left Leavenworth again? A. Yes, sir.
Q. Where did you go this time?
A. Howe, Indian Territory.
Q. What was the object of your visit to Howe?
A. Well, I had a divorced wife over there and I went over to see her and maybe find out through some one about my mother.
Q. Well, did you obtain any results from your inquiries over there? A. No, sir.
Q. Where did you then go from Howe?
A. Went back to Kansas, Leavenworth, Kansas.
Q. How long did you stay at Leavenworth?
A. About two years.
Q. Where did you live during those two years?
A. I lived out in Jefferson County, across the road from the Carter farm.
Q. What did you do? A. Farmed the Carter farm.
Q. Farmed the Carter farm for two years?
A. Yes, sir, part of the farm.
Q. Part of the farm? A. Yes, sir.
Q. Then where did you go?
A. I went back to Oklahoma City.
Q. To Oklahoma City? A. Yes, sir.
Q. What was the object of your trip to Oklahoma City?

A. Well, I thought maybe I could find some trace there from someone that would know my mother.

Q. Did you make inquiry there? A. Yes, sir.

Q. How long did you stay at Oklahoma City?

A. Three or four days.

Q. Where did you go from there? A. Back to Kansas.

Q. Leavenworth? A. Yes, sir.

Q. And have been living at Leavenworth ever since?

A. Yes, sir, I was married there.

Q. Married the second time at Leavenworth?

A. Yes, sir.

Q. When was the first time you heard of this Tommy Atkins matter? A. About three years ago.

Q. Who came to you about the matter first?

A. I don't know his name. A man, he said he was from Washington, D. C.; said he was a Government man.

Q. Did you make a statement to him of what you knew about yourself? A. I told him what I knew, yes, sir.

Q. You don't remember his name?

A. No, sir, I never heard his name.

Q. Have you seen him around the court room si ce the trial has been in progress?

A. Well, I don't know, I wouldn't know the man if I would see him. I didn't pay much attention; but he came in the factory and said a few words and I didn't give him much attention; I didn't know what it was he meant anything about it.

Q. Now, after you went back to Leavenworth, Kansas, this last time, what kind of work have you engaged in during that time?

A. I farmed one year and then I moved to Leavenworth.

Q. Well, what did you do in Leavenworth?

A. I drove a team for Hessey Manufacturing Company.

Q. Anything else?

A. I worked for Varney Heating Mfg. Co.; and from there I went to Helmers Furniture Factory, and from there back to Varney's.

Q. Back to where? A. Varney's.

Q. Did you do anything else during that time? A. No, sir.

Q. You were working for wages during this time?

A. Yes, sir.

Q. Were you working most of the time?

A. I worked steady all the time, only lost five days.

Q. After this Government representative had visited you and had this conversation with you, who was the next person that saw you about the matter? A. Mr. Long.

Q. Mr. Long? A. Yes, sir.

Q. You told him what you knew about it?

A. Yes, sir, same as I told the first man.

Q. And the various parties you could get information from? A. Yes, sir.

Q. How long was it until you saw Mr. Long again?

A. Oh, I believe it was about ten days or two weeks.

Q. Well, was anybody with Mr. Long when he came to you on this first trip? A. Yes, sir.

Q. Who was with him? A. Mr. Crilly.

Q. Did you talk to both Mr. Long and Mr. Crilly?

A. I talked to both of them, yes, sir.

Q. They were both present during the conversation?

A. Yes, sir.

Q. You say you didn't see Mr. Long any more for ten days or two weeks? A. Yes, sir.

Q. Where did you next see him?

A. In Leavenworth, Kansas. He came out to Varney's Factory where I was working.

Q. Did you talk to him there? A. Yes, sir.

Q. Did he leave you there or did you go with him somewhere?

A. I stayed there and he told me to call and see him after

Q. Well, did you go? A. Yes, sir.

Q. Where did you find him? A. At the National Hotel.

Q. What time of day was it you went to see him at the National Hotel?

A. It was after six o'clock, we quit at six o'clock.

Q. Had it gotten dark? A. No, sir, it wasn't dark.

Q. Between six o'clock and dark? A. Something like that.

Q. And when you got to the National Hotel did you find Mr. Long there? A. Yes, sir.

Q. Who, besides Mr. Long, was there?

A. He was by himself at the time and some other parties came in afterwards.

Q. Who came in afterwards? A. Mr. Jones.

Q. Dennis Jones?

A. Dennis Jones, Rube Smith, and Sam Nash.

Q. Anybody else?

A. Mr. Josey, I believe he introduced him as Mr. Josey.

Q. Now, when they came in there, do you know what Dennis Jones, Sam Nash and Rube Smith were called in for, what they were there for? A. Yes, sir.

Q. What?

A. To identify me as the boy that they were looking for.

Q. Did they identify you as the boy they were looking for at that time? A. Yes, sir, they did.

Q. Just state to the Court how these parties identified you?

A. Well, Sam Nash said that the boy had a mark on his back, birth mark; and some gentleman, I don't remember which, stood up and Sam Nash pointed to his coat and said it was right at a certain place, and then they asked me to show the mark and I did.

Q. Did you show the mark? A. Yes, sir.

Q. Was anything else done to identify you at that time?

A. Well, I told them that I had a little boot that I was wearing when I left Mrs. Letcher's, and Sam Nash asked me if I knew who bought it; and I told him I did not, and he said he bought it. And I gave the boot to Mr. Long.

Q. To Mr. Long? A. Yes, sir.

Q. I will ask you if at that time Dennis Jones also identified you as being the boy?

A. Yes, sir, he said, Mr. Long, he says, you have got the right boy.

Q. Henry, was that the occasion when the lease was taken, was it taken there at that time?

A. Yes, sir, they had made two trips to see me before I signed the papers.

Q. Well, you signed them on that trip to the National Hotel? A. Yes, sir.

Q. And Dennis Jones took your acknowledgment?

A. Yes, sir.

Q. When you lived at the Carter home, what name did they call you?

A. Well, they called me Tommy some, and called me H, called me Commodore, and——

Q. I mean at the Carter home when you lived there.

A. Yes, sir.

Q. They called you those names there? A. Yes, sir.

Q. What did you call old man Carter? A. Mr. Carter.

Q. You always called him Mr. Carter? A. Yes, sir.

Q. What did you call his wife during her lifetime?

A. Well, she was sick when I went there; I don't know as I ever called her anything.

Q. You don't remember about that? A. No, sir.

Q. I will ask you, Henry, if you were ever recognized by the Carter family as being related to them in any way?

A. No, sir, I was not.

Q. Were you relation that you know to Viola?

A. No, sir, not that I know of.

Q. Do you know where Viola came from?

A. No, sir, I don't.

Q. Did you ever hear old man Carter say where she came from? A. No, sir.

Q. Never did? A. Never did.

Q. She was there and you saw her there?

A. Yes, sir, I seen her there and we went to school together, and that is all I know about her.

Cross Examination by Mr. Allen.

Q. Henry, you went to school after you went out to the Henry Carter home? A. Yes, sir.

Q. Viola was in school with you? A. Yes, sir.

Q. You were the only two children who were classed among the colored children who attended that school?

A. No, sir.

Q. Who else? A. The Harveys, and Bells, and Carsons.

Q. Of the—all the schooling you ever had was at that school house, wasn't it?

A. Yes, sir, I never went to any other school.

Q. You say you were born at the home of—or when you first remember anything that you were living at the Granny Letcher home? A. Yes, sir.

Q. And you lived there until you got to be a good big boy and played around? A. I was walking around, yes, sir.

Q. The Granny home? A. Yes, sir.

Q. You knew at that time George Crilley?

A. I knew him, yes, sir.

Q. Do you remember the incident of smoking Van Tuly's pipe at Van Tuly's barn? A. No, sir, I don't remember.

Q. Do you remember pointing your finger at fruit, or getting after some of the boys for pointing at fruit on the fruit trees in Granny's yard? A. No, sir, I don't remember.

Q. Has anybody asked you about that recently?

A. Yes, sir, I think they have.

Q. Mr. Crilley did? A. Mr. Crilley, yes, sir.

Q. You told that that would make fruit drop off, didn't you? A. Well, I have always heard that but—yes, sir.

Q. Who was the first person you talked to about the names you mentioned a while ago, Mr. Crilley, Mr. Long, and the representatives of Mr. Page?

A. Mr. Long and Mr. Crilley came out together to see me.

Q. They are the first persons you talked to, were they, representing Mr. Page? A. Yes, sir.

Q. Where were you at that time?

A. I was putting in a furnace out on Third Avenue and Spruce; I was in the cellar when they came out.

Q. Was that at a hospital?

A. No, sir, it was in a private family.

Q. Had you formerly known some of the people at the hospital there?

A. I had knew some of the nurses around at different hospitals, yes, sir.

Q. Miss Hanna at the hospital?

A. I have seen her, yes, sir.

Q. Had you worked for her at the hospital there?

A. Yes, sir, we put in a pipe out there at the furnace at the Cushing Hospital; she was the matron there.

Q. Matron there. What did Mr. Long and Mr. Crilley say to you at that time?

A. Well, Mr. Crilley came to the cellar door, I was in the cellar—it was just about the noon hour—and he says, Henry, he says, come out here; and I came out; and he said, a gentleman out here in the car wants to see you. I walked out and he introduced Mr. Long, and Mr. Long, said God; anybody *came* see he is part Indian; and he said there is the boy I want; and he asked me then——

Q. He said here is the boy I want? A. Yes, sir.

Q. Go ahead.

A. And they came out after me then in the afternoon, and taken me down to the hotel.

Q. When was that with reference you signed the lease to the Gem Oil Company? Do you remember the occasion of signing a lease in the National hotel in Leavenworth?

A. Yes, sir.

Q. When was it you talked with Mr. Long and Mr. Crilley with reference to that time; was it before?

Q. I had seen them twice or three times; I can't remember exactly which; but it was two or three days before I signed anything.

Q. Now, they came down in a car that same day?

A. That was the day they came out to see me first. Mr. Long, the first time I had seen Mr. Long.

Q. Did they come back in the car to get you that day?

A. No, sir, I don't think they did.

Q. About how long was that before you signed the lease, Henry?

A. Well, I can't say exactly but it was quite a while afterwards.

Q. Several months or weeks?

A. Well, it was quite a while afterwards; I don't remember how long. I had seen them two or three times before I signed the paper.

Q. When Mr. Long said that, did Mr. Crilley say anything? A. He said you have got the right boy.

Q. Have you known Mr. Crilley all your life?

A. Yes, sir, nearly all my life.

Q. Have you seen him at frequent times since you lived at Granny Letcher's?

A. No, sir, I was in the country and I didn't see him then for quite a while, and then I was back in Leavenworth—I would see him at times, of course; never did talk to him, but I knew him when I would see him.

Q. You have seen him and he has seen you grow up from infancy? A. No, sir, I think not.

Q. About how long a period in your life would you say, Mr. Crilly hasn't seen you at all?

A. Well, I don't remember of him ever seeing me at all who I was from the time I was a small boy until the last two or three years. I worked right close by him and seen him every day when I was working at Varney's, but he never noticed me.

Q. You don't know whether he noticed you or not?

A. No, sir.

The Court: When was that?

A. That was two or three years ago.

Q. After Crilly says you have got the right boy, did Mr. Long say anything more? A. He said I know I have.

Q. Did Crilly talk to you at that time before he said you have the right boy? A. No, sir, he didn't.

Q. It was later than that that he talked to you about the fruit tree episode wasn't it?

A. Yes, sir, I had signed these papers when he talked to me about the tree.

Q. So, he didn't identify you by the tree at the time, fruit tree, at the time he told Mr. Long in your presence that you were the right boy?

A. No, sir, I had signed the papers before I talked to Mr. Crilly about the tree.

Q. Had you, before you talked with Mr. Long or Crilly, seen or talked to Rube Smith or Dennis Jones? A. No, sir.

Q. When was the next time you talked to Mr. Long after he and Crilly came to the place where you were working?

A. I don't remember, it was a short time though.

Q. Where did you see them then?

A. I was at Varney's at work.

Q. At where? A. At Varney's.

Q. How long was that after the first conversation?

A. I don't know how long it was.

Q. Well, was it a week or month, or how long?

A. Well, I couldn't say, it was a short time, I don't know how long.

Q. Who was with Mr. Long then? A. Rube Smith.

Q. Anyone else?

A. He came in the shop and him and Rube Smith was there, that was all.

Q. What did Mr. Long say at that time?

A. Well, I don't remember what he did say.

Q. Did you know Rube Smith at that time? A. Yes, sir.

Q. What did Rube say?

A. He didn't say anything, he just stood there with Mr. Long.

Q. Didn't either one of them say a word to you?

A. Mr. Long was talking to me.

Q. What did he say to you, Henry?

A. Well, I couldn't say what he did say.

Q. Did Mr. Long say at that time that you were the right boy?

A. Well, he always said that every time I seen him he said that.

Q. Did Rube Smith agree with him? A. Yes, sir.

Q. And at that time, did they talk to you about taking a conveyance from you, lease, or deed, or anything of the kind?

A. Well, I had signed the papers then, they had been there several times.

Q. I am talking about the first time you saw Mr. Long after this time that he and Crilly were there to see you, and before you signed the papers, where were you then?

A. Well, I have seen Mr. Long two or three times and talked with him and told him people that I knew, and he made investigation around there among people that knew, and out at McLouth, and then when he came back I made these papers to him and I saw him several times from then on.

Q. He went out to McLouth and made investigation there and came back and took these conveyances from you?

A. Yes, sir, he had made a trip to McLouth.

Q. You told him that some people accused Adas Wright of being your mother? A. No, sir, I didn't.

Q. He found out out there—— Did he tell you that he found out out there that Adas Wright denied being your mother? A. No, sir, he never told me anything about that.

Q. Did you talk to Dennis Jones and Rube Smith or Crilly at any other time or place after the first conversation you had with Mr. Long before you signed this lease?

A. No, sir, I never was in their presence only when Mr. Long was present.

Q. Well, was Dennis Jones to see you with Mr. Long any other time before you signed the lease? A. Yes, sir.

Q. Who was present at that time?

A. Mr. Long and Dennis—I mean Mr. Long and Rube Smith.

Q. That was before you signed the lease? A. Yes, sir.

Q. When you talked to Dennis Jones before you signed the lease? A. Yes, sir.

Q. Where? A. In his office.

Q. Did you go down there?

A. Yes, sir, Mr. Long taken me over there.

Q. How long before you signed the lease was that?

A. Well, I can't say, Mr. Allen, because I never paid enough attention to it then to remember the days, but it was quite a while after.

Q. Did Dennis Jones tell you then that you were the right boy? A. Yes, sir.

Q. What did he say about it, if you can remember?

A. He says, Mr. Long, we have got the right boy.

Q. It was after that that he took your acknowledgment at the hotel?

A. Yes, sir, I signed nothing until after they visited me two or three times.

Q. Did they bring Sam Nash or Walter Banks to you at any time before you signed the lease?

A. Sam Nash, I never seen Walter Banks until I met him here in the Court House.

Q. Did you recognize him here? A. Yes, sir, I knew him.

Q. Was that the same boy that was at Granny's when you would go back from time to time there with old man Henry Carter? A. Yes, sir.

Q. Sam Nash you saw here? A. Yes, sir.

Q. Had you seen him before you saw him when they brought him to identify him, had you seen him before that time? A. No, sir, I didn't.

Q. For a number of years?

A. I didn't see him for quite a while until they brought him to the hotel.

Q. Did you recognize him as the Sam Nash you played with at Granny Letcher's? A. Yes, sir.

Q. What did Sam say when they brought him to you?

A. Well, he spoke to me and asked me where I was living and I told him in town. And he says, Mr. Long, says I believe you have got the right boy, and then he went and explained about this mark that I had on my back.

Q. Now, who else did Mr. Long bring to you before he signed the lease?

A. I seen Mr. Jones and Mr. Smith, Rube Smith. Sam Nash, and another man he said was Mr. Josey. Those were

the men that I was with nearly all the time. I never was with anybody else.

Q. Now, you saw them the time you signed the lease?

A. Yes, sir.

Q. At the National Hotel? A. Yes, sir.

Q. Where did they take you, Henry, to sign that lease?

A. National Hotel.

Q. What consideration were they to pay you for it?

A. Gave me an eighth.

Q. Did they say anything about contesting the case or settling with your mother? A. No, sir, they didn't.

Q. They didn't tell you they would have to pay her something to quiet her?

A. No, sir, they never said anything about paying anybody.

Q. And they took that lease and recorded it and then took a deed from you, didn't they? A. Yes, sir, I think so.

Q. They later took the deed, didn't they?

A. Well, I signed all these papers about the same time.

Q. Did they tell you why they took that deed?

A. No, sir. They didn't.

Q. They took that to Minnie?

A. I don't know where they took it.

Q. Took it from you but they were conveying the land to Minnie Atkins now Mrs. Folk? A. I don't know.

The Court: Is that deed in evidence, Judge?

Mr. Allen: No, sir, Mr. Long testified about it.

The Court: All right, I thought if it was in evidence.

A. I took Mr. Long to be honest and I signed the papers in order to find my mother, that is all I knew about it.

Q. In order to find your mother?

A. Yes, sir, I thought he was working in my interest and I put confidence in him and made him a lease.

Q. He told you you would have to sign a lease and deed in order to get this property? A. No, sir, he didn't.

Q. Later did you have any conversation with George Crilly's son?

A. No, sir, I haven't seen him since I left Leavenworth.

Q. Did you have any conversation, any further conversation with Dennis Jones and Sam Nash?

A. No, sir, only just pass them on the street and speak like I would to you or anybody else, passed them by and speak to them.

Q. Did Mr. Long talk to you afterwards about being the son of Minnie?

A. Yes, sir, whenever he would come to Leavenworth, he would always come and see me and ask how I was getting along. He says, Henry, we are working awfully hard to get everything in shape.

Q. For you? A. Yes, sir.

Q. Then finally Mrs. Folk came to Leavenworth just before the taking of depositions there, didn't she?

A. I don't know anything about the depositions at all.

Q. Well, she came to Leavenworth in the fall of 1914, didn't she? A. I don't know.

The Court: When did you first see her there, Henry?

A. I never seen her but one time, that was at a distance and I don't remember when it was.

The Court: How many years ago, two or three years ago—— Oh, well, never mind.

A. Yes, sir.

The Court: What I was getting at, we will not take up time with matters that he doesn't know definitely about.

Q. To refresh your recollection, did you write Mr. Bagley this letter, on October 17th, 1914: "I write to inform you that my address is care of Varney Manufacturing Company, 210 Dallas Street. My mother is here sick in the hospital"?

A. No, sir, I didn't.

Q. Did you know about Mrs. Folk being sick in the hospital?

A. No, sir, not until I was here and heard her state here that she was in the hospital.

Q. If anybody wrote that to the Department of Justice, you don't know who did it?

A. Don't know, I never wrote it.

Q. Well, you did see her there sometime after you signed this lease to Mr. Long?

A. Seen her on the street from a distance; and they said there goes Minnie and I looked and I seen some ladies and gentlemen in a bunch and I didn't know Minnie from anybody else.

Q. Did Mr. Long ask you to come down to the hotel and see Minnie? A. No, sir, he didn't.

Q. Didn't you go down there to see her?

A. No, sir, I didn't.

Q. They didn't keep you up there at the hotel one night until late trying to see Minnie? A. No, sir.

Q. Did Mr. Long talk to you about the time Minnie was there?

A. Well, now, I don't remember. He talked to me every time he was in Leavenworth, Mr. Allen.

Q. Did he ever tell you why she wouldn't see you?

A. No, sir, he never.

Q. Did he ever tell anybody else why she wouldn't see you? A. I don't know.

Q. Didn't you go up there to see her?

A. No, sir, I didn't.

Q. With your lawyers? A. No, sir.

Q. Never went up there?

A. I never was in the National Hotel with any lawyers outside of Mr. Long's crowd.

Q. At the time that Minnie was there, did you still believe they were trying to establish your claim to this land?

A. Yes, sir.

And thereupon, Court recessed until two o'clock, P. M.

And thereafter, and at 2 o'clock P. M. court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. Cobb: If the Court please, Mr. Turner is here now.

The Court: You may call Mr. Turner, then, if you want to dispose of him now.

Mr. Cobb: Yes, sir; he will be short.

And thereupon, C. W. TURNER, being produced as a witness on behalf of the witness Henry Carter, and being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Cobb.

Q. State your name. A. C. W. Turner.

Q. Where do you live, Mr. Turner? A. Muskogee.

Q. How long have you lived in Muskogee?

A. Since 1882.

Q. How old are you? A. 59.

Q. You have been in business here most of the time?

A. Yes, sir, until *you* three years ago.

Q. What business were you engaged in?

A. Hardware business.

Q. What business are you in now? A. Real estate.
Q. How old are you? A. 59.

The Court: He said 59.

Q. I will ask you if you are acquainted with one George Crilley who now lives in Leavenworth, Kansas?
A. I met him here a couple of years ago.
Q. I will ask you if you saw him at the time there was a hearing in this case on the Receivership matter?
A. Yes, sir, it was during one of those hearings.
Q. Did you have a conversation with him about this Atkins matter, Carter matter at that time? A. Yes, sir.
Q. I will ask you, Mr. Turner, if in that conversation, Mr. Crilley stated to you, or stated to you in substance that if he were in Leavenworth he didn't believe that the parties engaged in that litigation, referring to the Atkins litigation, were trying to find the real Tommy Atkins and that if he were in Leavenworth he could lay his hands upon him within 48 hours? Did he state that or that in substance in that conversation?
A. Why, he stated that it seemed like they didn't want him to tell all he knew; that he wanted to tell up to a certain period and that if he was in Leavenworth, he could place his hands on him in 48 hours.
Q. If he was in Leavenworth, he could place his hands on him in 48 hours? A. Yes, sir.
Q. The real Tommy Atkins?
A. On the real Tommy Atkins.
Q. I will ask you if he also in that conversation—if he didn't state in substance that the real Tommy Atkins that he referred to was in Leavenworth and was going under the name of H Carter—Henry Carter, did he state that or that in substance? A. Yes, sir, yes, sir.

Cross Examination by Mr. Stuart.

Q. Where did you see him, Clarence?
A. In my office up stairs over the——
Q. What was he doing up there? A. Sir?
Q. What was he doing up there?
A. Why, he came up there—he told me how he came to come here, he was subpoenaed as a witness in——
Q. No, what was he doing up in your office?
A. Why, he came up there to see me.
Q. What for?
A. Just to meet me as one of the old timers here.
Q. Just came up there to meet you? A. Yes, sir.

Mr. Maxey: I want to ask Mr. Turner a question; it may be a little out of order, while he is here, I would like to ask him.

The Court: Alright.

Examination by Mr. Maxey.

Q. Did you know John Davis? A. Yes, sir.

Q. Do you remember about what time he died, or what became of him?

A. He was killed over here near Seventh and Emporia.

Q. Do you remember about the date?

A. No, I don't; it was sometime after 1895, though.

Q. About how long after that do you think it was?

A. Well, it might have been a year or two; something like that—I don't know.

Q. You think it was before 1890?

A. No, it was after 1895.

Q. I say you think it was before 1900 I mean? A. Yes, sir.

Q. It was between 1895 and 1900?

A. Yes, sir, he married Jim Niggerhead's widow, and he was killed at that—down here at the Al Jennings bunch and Bud Ledbetter. Niggerhead was killed down there and John Davis took up with his widow after that, and that occurred in 1894 or early part of 1895.

Q. And how long do you think Davis lived with Niggerhead's wife before he was killed?

A. I don't remember, it might have been a year or so; I don't remember now.

Q. What?

A. Might have been a year or so, I don't remember.

Q. What is your best recollection as to the time?

A. Perhaps a year or so, such a matter.

Q. Where did that John Davis live before he came here?

A. Well, I couldn't say where he lived. He lived in the Creek Nation here somewhere first one place and then another.

Q. Do you know what town he belonged to?

A. He was a Euchee.

Q. Do you know what relation he was if any to the Atkins? A. No. I don't.

Q. You don't know the relation? A. No, sir.

Cross Examination by Mr. German.

Q. Now, you say he was killed a year or so after 1895?

A. To the best of my recollection, yes, sir.

Q. Referring to Mr. Crilly, he claimed to you didn't he that he had been down here to Muskogee years ago?

A. Yes, sir.

Q. And did you know him then away back yonder?

A. No, sir.

Q. But he was looking up some of the old timers?

A. Yes, sir.

Q. That is what he claimed and how he came to come to your office?

A. Yes, sir, he found Mrs. Zufall and she told him about me.

Mr. Stuart: You had no interest in the case?

A. No, sir.

Mr. Stuart: Nothing at all?

A. No, sir.

Q. Mr. Turner, after Crilly had left here, talked to you in your office and had gone back home, state whether or not you communicated with him with a view of having him get a lease for you from Henry?

A. Yes, sir, I wired him and called him on the telephone.

(Witness dismissed.)

And thereupon, HENRY CARTER was recalled for further cross examination and testified as follows:

Cross Examination by Mr. Stuart.

Q. Henry, you married in Muskogee, did you?

A. Yes, sir.

Q. Married in 1904, didn't you? A. In 1904, yes, sir.

Q. And you got your license here? A. Yes, sir.

Q. Got your license in the name of Kessinger?

A. Henry Kessinger.

Q. Now, why did you take that name?

A. Well, people always told me where I was living that that was a nigger name and when I left I changed it.

Q. Now, why did you take the name Kessinger?

A. I just picked it up.

Q. Where did you pick it up?

A. Well, I used to know a fellow by that name.

Q. Where? A. Jarbalo, Kansas.

Q. Henry, there is a family of Kessingers living in Leavenworth, Kansas? A. I don't know.

Mr. Allen: May it please the Court, we expect to

use Mr. Cook as a witness; there is no objection to his remaining in the room?

Mr. Stuart: No, I guess not.

Q. You say you don't know a family there by the name of Kessinger? A. No, I don't.

Q. Don't you know there is a family of men, several brothers? A. No, sir.

Q. By the name of Kessinger? A. No, sir.

Q. You took this name Kessinger from a fellow in Jarbalo, Kansas? A. Yes, sir.

Q. Did you ever hear of a town by the name of Tonganoxie? A. Yes, sir.

Q. Where is that? A. Southwest of Jarbalo.

Q. Right southwest of Jarbalo. Do you know some Kessingers living there? A. I don't know.

Q. You don't know?

A. No, sir, I am not acquainted in Tonganoxie.

Q. What kind of a looking man was he?

A. He was a young fellow.

Q. Young fellow, was his father living there?

A. No, sir, he told me his parents were dead.

Q. Just another young fellow about your size?

A. Yes, sir, he was merely a young man that I knew.

Q. About your size? A. No, sir, he was a big fellow.

Q. Older?

A. I don't know, sir, he wasn't much older.

Q. Wasn't he older? A. I don't think he was.

Q. Did he live in Jarbalo?

A. No, sir, I didn't live there.

Q. But you knew this fellow at Jarbalo?

A. Yes, met him with part of the family that he married the girl.

Q. Had you ever been in this town Jarbalo? A. Yes, sir.

Q. You have been in Tonganoxie?

A. I have been through there on the train is all.

Q. And you just picked the name Kessinger because you had a young friend by the name of Kessinger?

A. He wasn't any friend of mine.

Q. You just picked it up because it was a peculiar name?

A. Yes, sir, I couldn't get anybody by the name and I would be all right.

Q. You just thought that name would fit you. Now, Henry, when did you first—— How long did you stay here after you married in the Indian Territory? A. Not very long.

Q. Not very long. Well, how long did you stay?

A. About four months.

Q. Where did you go to then? A. Leavenworth, Kansas.

Q. Now, where were you living in Leavenworth after you went back? A. I made a crop.

Q. Where, in Leavenworth?

A. No, sir, at the Carter place.

Q. At the Carter place, and then did you go back to the Territory?

A. Yes, sir—no, I will take it back; I made one crop.

Q. Made one? A. Yes, sir.

Q. Now, the first person you ever went to school to was Annie Davis, wasn't it? A. Yes, sir, Miss Annie Davis.

Q. You remember her? A. Yes, sir.

Q. Now, how old were you when you went to school to Annie Davis? About how old were you? A. I don't know.

Q. How big were you? A. I was a small boy.

Q. Well, you knew you couldn't go to school in Kansas if you were under six years of age, didn't you? A. No, sir.

Q. You don't know that? A. No, sir, I don't.

Q. You were as much as six when you went to school, though, weren't you? A. I don't know how old I was.

Q. Well, how big were you?

A. I don't know, a small fellow.

Q. About this big? A. I don't know.

Q. You went to Annie Davis? A. Yes, sir.

Q. You did go to Mr. Jesse Hall, didn't you?

A. I went to Miss Byron.

Q. Well, you went to a man named Jesse Hall, a school teacher? A. Yes, sir, I went to a man——

Q. Alright. Now, did you ever see that picture before, Henry? A. Yes, sir, that is my schoolmate.

Q. And that picture was taken when you went at Hall's, wasn't it? A. Yes, Jesse Hall.

Q. Took that picture? A. No, sir.

Q. Well, he had it taken of the group at the school?

A. No, sir.

Q. Well, who had the school taken?

A. This is Mr. Kelsey.

Q. But it was taken while you were going to school to Jesse Hall?

A. No, sir, Jesse Hall taught the second term; Jesse Hall taught one term, and then Mr. Kelsey—this was taken when he was teaching school.

Q. Now, you say this wasn't taken when Jesse Hall was teaching? A. Here is Mr. Kelsey, in the picture right here.

Q. Who is this one? What year was it taken?

A. That was after Mr. Kelsey taught.

Q. That was—that was another teacher? A. Yes, sir.

Q. Now, let's see, Henry, isn't that exactly the same picture, Henry? A. No, sir.
Q. It isn't? A. No, sir.
Q. This was taken how much later? A. The next term.
Q. The next term? A. Yes, sir.
Q. The next term; now, when was this one taken?
A. That was taken the same year.
Q. The same year? A. With Mr. Kelsey.
Q. With Mr. Kelsey? A. Yes, sir.

The Court: Now, the record, Judge, will not be clear, unless——

Mr. Stuart: Your Honor, these are already in the record.

The Court: I can't tell the ones that you are referring to.

Mr. Stuart: The last one is Government's Exhibit 19, and the other one was—the Hall picture is——

The Court: Let me have those a minute, Judge; I want to straighten it out to my satisfaction.

Mr. Stuart Yes, sir, most anybody can beat me at that.

By the Court.

Q. Henry, here is a picture marked Government's Exhibit 19, who was the teacher at the time that was taken?
A. Mr. Joe Kelsey; this is him.
Q. That was the man who tanght between the two terms? Taught by whom? A. Mr. Hall.
Q. Mr. Hall? A. Yes, sir.
Q. Now, Government's Exhibit 23, who was the teacher when that was taken?
A. This is Mr. Hall; this is my last teacher.
Q. Was that taken while Mr. Hall taught the term following Kelsey? A. Yes, sir.
Q. Now, Government's Exhibit 20, who was the teacher when that was taken?
A. Mr. Joe Kelsey: this was taken the same year that this was taken.
Q. The same year exhibit 19 was taken? A. Yes, sir.

Mr. Allen: If Your Honor please, those school teachers were on the witness stand, and their depositions are in this case.

By Mr. Stuart.

Q. Now, Henry, after you grew up to be a considerable boy, did you stay at old man Carter's?

A. I made one crop after he died.

Q. How old were you? A. I don't know.

Q. When you made the crop? A. I don't know.

Q. Well, were you a grown man? A. I was a big boy.

Q. Big boy? A. Yes, sir.

Q. Now, do you remember old man C. J. Post that lived there? A. Yes, sir.

Q. And do you remember Mr. Rice? A. What Mr. Rice?

Q. W. H. A. Yes, sir, William H. Rice.

Q. Do you remember A. J. Ridgeway?

A. No, sir, I don't know him.

Q. You remember old man Garret Smith well, don't you; old man—old colored fellow? A. I know him, yes.

Q. Know him well? A. Well, not so well, but I know him.

Q. Know Garret Smith's wife, in her lifetime—old Mrs. Smith? A. No, sir, I didn't know her.

Q. She died before you knew her? A. Yes, sir.

Q. That is died before you recollect that you ever did know her? A. Yes, sir.

Q. How far did Mr. Post live from Mr. Carter—old man Carter? A. One mile.

Q. How far did Mr. W. H. Rice live from him?

A. Just across the road.

Q. Just across the road? A. Yes, sir.

Q. And how far did Mr. Ridgeway live from him?

A. I don't know Mr. Ridgeway.

Q. And how far did Garrett Smith live from him?

A. He lived in McLouth, Kansas, when I knew him; four miles and a half.

Q. Do you know where he lived when you were very small? A. No, sir.

By the Court.

Q. Henry how long after you went to Carter's place before you began to go to school?

A. I was there about a year and a half; maybe two years.

Q. Before you started to school? A. Yes, sir.

Redirect Examination by Mr. Cobb.

Q. In regard to Government's Exhibit 23, I will ask you if these pictures, the individuals there shown in the back row of the picture were standing on anything or were they standing—— A. Yes, sir.

Q. What were they standing on?

A. Our old school building had a step down out in front, a little platform and the smaller children, we stood on the back, up on the platform and the others stood down in front of us.

Q. In Government's Exhibit 20, I will ask you as to the same matter?

A. Same thing, yes, sir. Our teacher stood on the ground.

Q. Henry, you were asked about this mark that was on your back, have you that mark on you? A. Yes, sir.

Q. I wish you would pull off your coat and show the Court that mark on your person; pull up your shirt and exhibit it to the Court; go ahead. (And thereupon witness exhibited mark on back to the Court.)

Q. Has that mark been on you ever since you can remember? A. Yes, sir.

Cross Examination by Mr. Cruce.

Q. Henry, do you remember when you went out to old man Henry Carter's? A. Yes, sir.

Q. How did you go out? A. In a lumber wagon.

Q. Do you remember what was pulling the wagon?

A. He had two horses.

Q. Two horses? Do you remember the color of the horses? A. No, sir, I don't.

Q. Now, you were about— How did old man Carter— About what age were you before you started to school— You were out there about a year and a half before you started?

A. I think so, yes, sir.

Q. And the first time you started you were too young and only went three days?

A. Well, now, I couldn't say, Mister, whether it was two years or two and a half.

Q. But that is your best judgment?

A. Yes, sir, I can't be certain.

Q. I believe you said when you started you only went three days because you were too young to go to school?

A. Yes, sir.

Q. So that would make you about four years old when you went out to Henry Carter's?

A. I don't know how old I was.

Cross Examination by Mr. Allen.

Q. Henry, you say Sam Nash pointed out the place on your back that that mark would be if you were the boy that he knew at Granny Letcher's? A. Yes, sir.

Q. Did he correctly describe that mark? A. Yes, sir.

Q. Did he correctly point to the location of it?
A. Yes, sir.
Q. That was before he had seen it since you were boys together? A. Yes, sir.
Q. Did you strip in the presence of Mr. Long?
A. Yes, sir.
Q. And showed that mark? A. Yes, sir.
Q. Mr. Long saw it? A. Yes, sir.
Q. Did Mr. Crilly see it? A. He wasn't there, no, sir.
Q. Did Rube Smith see it? A. Yes, sir.
Q. Did Dennis Jones see it? A. Yes, sir.

(Witness dismissed.)

Mr. Cobb: We rest.

And thereupon, R. O. LARKIN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. R. O. Larkin.
Q. Mr. Larkin, what age are you?
A. Seventy-three years old.
Q. Where do you live? A. Platte County, Missouri.
Q. What is your Postoffice?
A. Platte City, Platte County.
Q. How long have you lived there?
A. I have been born and raised there on the same farm where I am now.
Q. You are a married man?
A. Yes, sir, married in sixty-four.
Q. What year were you born? A. Forty-four.
Q. Was your father a slave owner? A. Yes, sir.
Q. Did he own a slave by the name of Mary Ann?
A. Yes, sir, Mary Ann Larkin, they always went by the name of the older family.
Q. Did she afterwards become Mary Letcher or Mollie Letcher?
A. She first married a Billy Mayo, he belonged to the Hunt family, about two miles from our place.
Q. Mayo did?
A. Yes, sir, that is he went by the name of Hunt, but when he went over to Leavenworth he changed his name to Mayo.

Q. To Mayo? A. Yes, sir.

Q. And this slave woman of your father's became Mary Mayo? A. Yes, sir.

Q. What did you call this woman, what name did you folks give her at home? A. Mary Ann.

Q. Mary Ann? A. Yes, sir.

Q. What name did she afterwards have, she married Mayo or Hunt who changed his name to Mayo, then what name after that?

A. I don't know. They claimed she married a Fletcher, I don't know anything about it?

A. Letcher? A. Yes, sir.

Q. Did you know her when she lived in Leavenworth?

A. Mary Ann?

Q. Yes? A. Yes, sir.

Q. When did she first live in Leavenworth?

A. They moved over there during the war, in the fall of sixty-two or sixty-three, I don't recollect exactly.

Q. They were among the slaves that were freed?

A. Yes, sir.

Q. Did you see her very often in Leavenworth?

A. Seen her several times during life.

Q. How far is Platte City from Leavenworth?

A. About nine miles from the house.

Q. Did you have occasion to go to Leavenworth much during the lifetime of this colored woman?

A. Why, I went there to do the marketing and sold eggs and butter and chickens and turkeys.

Q. Did this Molly Ann have anything to do with the rearing of you or caring for you when you were young?

A. Yes, sir, I was turned over to her when I was very young, when I was first born. My mother was a widow woman—— Well, she wasn't a widow at that time, but she was when I was three years old; my father got killed in the Mexican war. I never had the chance that lots of them had. I missed my education, I ain't got no education much.

Q. Now, Mr. Larkin, after this Mary Ann became a Letcher, after she acquired that name, did you see her in Leavenworth now and then? A. Yes, sir.

Q. How did you happen to see her in Leavenworth?

A. Well, I was in Court there in '84, during the time of Cleveland's administration, she wanted to prove her marriage by me.

Q. Her marriage to this Hunt?

A. Yes, sir, she was trying to get a pension. I didn't know nothing about his war record though, I just testified to their marriage.

Q. Well, that is one occasion when you saw her. When you would go over to Leavenworth to carry your vegatables and to get groceries, would you have occasion to go see Mary?

A. Oh, yes, I have seen her several times.

Q. Do you remember what street, what different streets she lived on? A. Well, she lived on Cherokee street.

Q. What other streets, do you remember?

A. Well, she lived north of that, Seneca street, I think; that is way north, I don't know but one street or two there in Leavenworth as much as I have been there all my life.

Q. Now, tell the Court what color that woman was.

Q. She was very dark; black.

Q. Take Dennis over there, how does she compare with that man sitting at the end of that table—standing up?

A. Oh, she was darker than that.

Q. Take Coody Johnson there; how does she compare with his color?

A. She was equally as black as him, or a little blacker.

Q. She was just as black as she could be? A. Yes, sir.

Q. She was as black as your hat there?

A. Yes, she was black—she was slick black; just as black as the hat.

Q. Do you remember Jim Mayo? A. Yes, sir.

Q. Her son? A. Yes, sir.

Q. Do you remember a one-armed boy around her house?

A. Yes, sir.

Q. What was his name?

A. Sammy, that was her grandchild.

Q. Did you know of any boy around her house called Tommy? A. No, sir, I didn't.

Q. Did you ever know of any boy around her house that was an Indian boy? A. No, sir.

Q. Did you know of a boy around her house they called Indian Tommy? A. No, sir, I didn't.

Cross Examination by Mr. Stuart.

Q. You are 73? A. Yes, sir.

Q. How old would Granny be if she was living?

A. Well, sir, she was about—she was older than me.

Q. Just about three years, wasn't she?

A. No, she was more than that; she was more than that. She was seven or eight years more than me.

Q. Well, you are 73? A. Yes, sir.

Q. Sure of that? A. Yes, sir.

Q. You were born in '44, weren't you? A. Yes, sir.

Q. How far did you live from the town of Leavenworth? Nine miles? A. Yes, sir.

Q. What was your business at that time?
A. Well, I went to Leavenworth trading.
Q. What did you do, though? A. Me?
Q. Yes, sir.
A. Well, sir, I hauled marketing there; hauled wheat there.
Q. What was your business—farming?
A. Yes, sir, farming there, that was my business.
Q. Are you farming yet? A. No, sir, not lately.
Q. Farming then about nine miles away? A. Yes, sir.
Q. And you would go occasionally to Granny's house, wouldn't you? A. Yes, sir.
Q. You went to her house on Seneca street, didn't you?
A. Yes, sir, that is where she——
Q. Yes, on Seneca street?
A. Yes, I think that is the place, yes, sir.
Q. And the people there on Seneca street, all called her Granny Letcher, didn't they? A. Annie Letcher?
Q. Granny Letcher?
A. They might have called her that; I never heard them call her that.
Q. Didn't you ever hear her called Granny Letcher?
A. No, sir.
Q. You never heard her called Granny?
A. That is the one the white man claimed married?
Q. Oh, I don't know but did they call her Granny Letcher? A. Well, I don't know that.
Q. Did you ever know of her ever being called——
A. Yes, sir, I heard of a Letcher, yes, sir.
Q. What was her name after she was a Mayo?
A. Well, she got her pension as a Mayo.
Q. Who was *seh* after she was a Mayo?
A. I never heard her say nothing only that she was married to him.
Q. Married to who? A. Letcher or whatever they call her.
Q. Didn't you and all of the people call her Letcher?
A. No, sir.
Q. You were told her name was Letcher?
A. No, sir, was not.
Q. The woman you knew was never known as Letcher?
A. Well, her nephew called her Granny.
Q. Did you ever know her as Letcher? A. No, sir.
Q. You never heard her called that? A. No, sir; no, I will take that back——
Q. Well, let's get it straight.
A. Well, you get as old as I am, you can't be so quick either.

Q. Well, I am pretty near as old as you; I am sorry to say. A. I don't think you are.

Q. Well, I am getting along. When did you ever hear her called Granny Letcher?

A. I can't tell you; after they claimed she was married, I reckon.

Q. Well, did you hear her called Granny Letcher after you were there about that house? A. No, sir.

Q. Did not? A. No, sir, I did not.

Q. You never knew for years about her being called that?

A. No, sir, I was 'round down there, her son told me Fletcher; her son Jimmy——

Q. How many people were living in the house there? There were people living in the house with her?

A. No, sir, not as I know of. When I knowed her she carried on sort of a laundry.

Q. What kind of a place did you see her in?

A. A frame I think.

Q. A two story or a one story? A. I can't tell you that.

Q. Was it a barn or a dwelling house?

A. Well, it was a dwelling house on Cherokee street.

Q. You say you saw her on Seneca? A. Yes, sir.

Q. What sort of a place on Seneca?

A. I can't tell you that now.

Q. What did it look like?

A. Well, I can't tell you; I am not going to lie to you about it.

Q. Well, how long ago, was it when you saw her there?

A. '84 and along there, and past that.

Q. You saw her there, didn't you—— A. Yes, sir.

Q. When Cleveland went in as President?

A. Yes, sir; I don't know what year it was.

Q. You know Cleveland was nominated in 1884, wasn't he? A. Elected in '84, wasn't he?

Q. And took his seat the following year—'85?

A. Yes, sir.

Q. It was one of those years, wasn't it; either when he was elected or inaugurated?

A. He was elected and the postmistress at Platte City —she was a democrat, was put in there.

Q. Then it was in '85, wasn't it?

A. Yes, sir, I reckon it was; I think it was.

Cross Examination by Mr. Hanford.

Q. Did you say her name was Letcher or Fletcher?

A. I think she was called Fletcher.

Q. Think it was called Fletcher?

Q. People said she was Fletcher; I never knowed she was married.

Q. And you knew Jim Mayo you said? A. Oh, well.

Q. And you knew this one-armed boy?

A. Yes, and if he came in I could show him to you any where in the State.

Q. Did you ever know of any other children around there?

A. No, sir, I didn't.

Q. Didn't know anybody around there? A. No, sir.

Q. You say you saw her several times?

A. Yes, sir, I have.

Q. How many times?

A. I can't tell you, thirty-five or forty years that I have been to Leavenworth. This is the first year I have missed in Leavenworth since '68 or '69, and I have been there during that time; I was there during the war time.

Q. There during the war time?

A. Yes, delivered cattle there.

Q. And did you see her then?

A. Yes, sir, I seen her once then.

Q. Now, about how many times, did you see her altogether in Leavenworth?

A. No, I ain't going to tell you that; I ain't going to do that—you are asking me something I can't answer; I told you I couldn't.

Q. Was that the last time you ever saw her up there on Seneca street? A. No, sir.

Q. You saw her after that? A. Yes, sir.

Q. Was she still at the same place?

A. Yes, sir, I think so.

Q. The same place? A. Yes, sir, I think so.

Q. And that is about the time that Cleveland took his seat? Went in as President?

A. It was during his administration, it was along there somewhere, I think—right there.

Q. Right close; you remember the postmistress had taken her seat?

A. Yes, sir, I took her up with me just like I am here.

Q. That was the new postmistress at Platte City?

A. Yes, sir, a widow woman.

Q. A widow woman? A. Yes, sir.

Q. And she was put in as postmistress, and shortly after that you took her over to Leavenworth?

A. Yes, sir, she was a witness because the colored man belonged to her family and the widow woman belonged to ours, and they was proving up their marriage license.

Redirect Examination by Mr. German.

Q. Mr. Larkin, it was sometime during Cleveland's administration that you had occasion to help her out on this pension business? A. Yes, sir.

Q. And it was after the postmistress—democratic postmistress, had been appointed?

A. Yes, sir, couldn't get it no other way. That was the first thing that the Democrats got.

Q. Now, you don't remember, do you, how long it was after Cleveland was inaugurated that that postmistress was appointed? A. No, I don't.

Q. And you don't remember how long after the postmistress was appointed that you had to do with being a witness to her marriage? A. I can't tell you that.

Q. It was sometime during Cleveland's administration?

A. During that four years; I know the next time he was elected my brother-in-law got it—Tom Cole; he is dead now.

Witness dismissed.

And thereupon, EARNEST ENDRES was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Earnest Endres.

Q. You are a brother of Ben Endres? A. Yes, sir.

Q. Where do you live? A. Wichita.

Q. How long have you lived at Wichita?

A. About seven years.

Q. How long since you have seen your brother Ben?

A. About three months ago.

Q. When were you subpoenaed to come down here?

A. I got the subpoena Decoration Day.

Q. This week? A. Yes.

Q. Did you ever live in Leavenworth? A. Yes.

Q. Where were you reared, I mean what city were you reared in? A. Leavenworth.

Q. What age are you? A. Thirty.

Q. Then, you were born in 1887? A. Yes, sir.

Q. 1886 or 1887? A. 1887.

Q. What time in the year? A. January 4th.

Q. January 4th, 1887. Where in Leavenworth were you born? A. I was born on Cherokee Street.

Q. Do you know what number? A. 220.

Q. How long did you live on Cherokee?

A. About a year or two years.
Q. Then where did you live? A. 215 Delaware.
Q. Where is Delaware with reference to Cherokee?
A. One block north.
Q. Then, where is Shawnee with reference to Delaware?
A. One block north.
Q. Then, where is Seneca with reference to Shawnee?
A. One block north.
Q. How long did you live on Delaware in the two hundred block?
A. Well, I lived there I guess from the time I was——
Q. About how old were you when you moved off of there?
A. About two years.
Q. Then, when did you move away from Delaware street from the two hundred block, about how old were you?
A. I was about twenty-three.
Q. You lived there then until you were grown? A. Yes.
Q. Now, as a boy growing up, did you play with other boys? A. Yes, sir.
Q. Where did you play?
A. Well, played mostly all around town.
Q. You know a boy named Alva Adams? A. Yes, sir.
Q. He is a man now? A. Yes, sir.
Q. Was he one of the boys you played with? A. Yes, sir.
Q. Did you know Tommy York? A. Yes, sir.
Q. What other boy did you play with?
A. Well, Willie Warren, Robbie Conradt, Alva Adams, Ed Baker.
Q. Where did Alva Adams live, if you remember?
A. He lived at one hundred Delaware.
Q. Did he ever live over the water works?
A. That is 100 Delaware street.
Q. What did you boys play when you were eight, nine, ten, eleven, twelve years old, thirteen?
A. Well, played "Sal Folks" and "Run sheep run," base ball.
Q. All sorts of games? A. Yes, sir.
Q. Did you chase around town a good deal in the business part? A. Yes.
Q. What different streets did you chase around on?
A. Well, from Choctaw street north I guess, about five or six blocks.
Q. That would include Seneca? A. Yes, sir.
Q. Did you know any boy there in town at any time since you can remember by the name of Tommy Atkins? A. No, sir.
Q. Did you know any boy there since you can remember by the name of Indian Tommy? A. No, sir.

Q. Did you know any Indian boy there in town when you were a youngster growing up? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Did you know Alva Adams, you say? A. Yes, sir.
Q. Did you know Tom Higgins?
A. Not personally, I have heard of him.
Q. Tom was there with Alva Adams, wasn't he?
A. Well, he might have been, I didn't know him.
Q. He was a boy at the same time Alva was?
A. Well, I don't know.
Q. Well, when did you know him?
A. Well, I just heard Alva speak of him as his brother-in-law.
Q. Do you know Elof Crilly? A. No, sir.
Q. You heard of him? A. Yes, sir.
Q. Played with him? A. No, sir, he was too old.
Q. How old do you say you are? A. Thirty.
Q. And Elof was a little too old for you? A. Well, you didn't play then down about Crilly's barn, you played up on Cherokee?
A. No, we played from there—— Well, we played practically all over town.
Q. But you didn't know Elof Crilly to play with him?
A. Not to play with him.
Q. Who else did you play with in Crilly's neighborhood?
A. Well, one boy by the nickname of Swipe Smith.
Q. Swipe was tough, wasn't he? A. Yes, sir.
Q. You played with Swipe? A. Yes, sir.
Q. Alva Adams played with Swipe? A. Yes, sir.
Q. Both of you played with Swipe. Now, you are a brother of Mr. Endres, one of the attorneys in this case?
A. Yes, sir.
Q. For the other side? A. Yes, sir.

Cross Examination by Mr. Cobb.

Q. Leavenworth was a city at that time of about twenty-five thousand people wasn't it?
A. Well, it might have been twenty-five.
Q. About as big as it is now?
A. Well, Leavenworth is about twenty thousand now.
Q. Lots of people in Leavenworth even now that you don't know, isn't there? A. Oh, yes.

Redirect Examination by Mr. German.

Q. You say you are a brother of Ben Endres?
A. Yes, sir.

Q. Have you talked to him about this matter? A. No, sir.

Q. Where were you when this subpoena was served on you? A. At Wichita.

Q. Where you reside? A. Yes, sir.

Q. Did you at that time know what was wanted with you?

A. No, sir.

Q. Did you communicate with your brother Ben to find out? A. No, sir.

Q. Did you talk to anybody in Wichita to find out what they wanted with you? A. Yes.

Q. Who? A. A man with the Carter Oil Company.

Q. What is his name if you remember. To refresh your memory was it a man named Eberly? A. Yes, sir.

Q. Did he know?

A. He didn't give me any information in regard to it at all.

Q. Since you have been here has your brother been here?

A. No, sir, he is out of town.

Q. How much older than you was Elof Crilly?

A. Well, I judge he was about again as old as I am.

Q. At that time? A. Yes, sir.

Q. About how many years older than you was he?

A. Well, I should judge he is about sixty years old.

Q. We are not speaking of George Crilly, the liveryman?

A. That is who I was referring to.

Q. Did you know a son of George Crilly by the name of Elof? A. No.

Q. He was about grown in 1890, did you know him at that time? A. No.

Q. Now, did you know any boy that they called Trailer?

A. No, sir.

Q. Do you remember of Alva Adams getting into any trouble over some copper, stealing some copper? A. Yes, sir.

Q. You remember that occasion, do you? A. Yes, sir.

Q. Did you know about his being arrested over that?

A. Well, that is how I come to know about that, through the papers.

Q. At that time, did you know Alva? A. Yes, sir.

Q. He was one of your playmates? A. Yes, sir.

Q. He was one of the boys that played in the crowd with all of you? A. Yes, sir.

Q. And there was no boy named Tommy or Indian Tommy in that crowd? A. No, sir.

Recross Examination by Mr. Stuart.

Q. This boy Alva was arrested for stealing some brass, wasn't he?

A. Well, I can't say whether it was brass or what it was.

Q. Stealing? A. Yes, sir.

Q. And what time was that, what year was it?

A. Well, it was I judge about ninety-six or '97.

Q. Ninety-six or ninety-seven? You think that was about when it was. Now, how old was Alva when he was arrested, about how old do you think?

A. I judge about fifteen or seventeen years old.

Q. Fifteen or seventeen years old. Did you know Arthur Crilly? A. Well, if that is the old gentleman, yes.

Q. I am not talking about the old gentleman, I am talking about Crilly's boys. You said just now Elof Crilly was twice as old as you are?

A. I thought you referred to him.

Q. Then, you didn't know the Crilly boys then?

A. No, sir.

Q. And they stayed right there in old man Crilly's house, didn't they, in that barn on Seneca?

A. Well, as to that, I don't know.

Q. You knew them, didn't you? A. Knew of them, yes.

Q. You knew that old man Crilly had some boys when you played there; you knew of the Crilly boys?

A. Well, I can't say that I do.

Q. You say you never heard of the Crilly boys?

A. Of the Crilly boys.

Q. Never heard he had some boys in the Seneca House?

A. No, sir.

Mr. Stuart: And yet you played all over town.

(Witness dismissed.)

And thereupon, FLOYD HUNT was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. Floyd Hunt.

Q. Where do you live? A. Thornton and Fifth.

Q. Where? A. Leavenworth, Kansas.

Q. How old are you? A. Thirty-one.

Q. What place in the city did you say you live?

A. Fifth Avenue and Thornton.

Q. How long have you lived there? A. Four years.

Q. Do you remember where you lived back in 1898, '97, and '96, about what place in the city? A. 210 Olive.

Q. Do you know when you moved there, what year?

A. At 210 Olive?

Q. Yes, sir? A. No, I couldn't remember the date.

Q. Do you know about how old you were at that time?

A. I judge about eight years old.

Q. Now, from the time you were eight, did you play about with other boys? A. Yes, sir.

Q. Tell the Court at the age of eight, nine, and ten years, along in there, what is the names of some of the other boys that you played with?

A. Lee and Charlie Warren, and Earnest Endres.

Q. That is the man that just left the stand?

A. Yes, Cotter Collins, Carl Sheets.

Q. Is he living or dead? A. He is living.

Q. Where does he live? A. Well, I couldn't say.

Q. All right, name some more? A. Swipe Smith.

Q. Where is Swipe Smith?

A. He has been dead for about three years, I think.

Q. All right, any others that you know of?

A. Alva Adams.

Q. Mr. Hunt, where did the boys that you have named when you played together, where did you play?

A. Well, there wasn't any particular place chosen, we played most in playing ball on Second and Walnut.

Q. Do you remember where Alva Adams lived at that time?

A. Why he lived on Delaware Street between Main and Second.

Q. You lived at that time at 210 Olive? A. Yes, sir.

Q. Where did you move from to that place?

A. To 229 Olive.

Q. When did you move?

A. Well, lived at 210 Olive for about twelve years and then moved down there.

Q. During all the years you lived there—— You say you are thirty one? A. Yes, sir.

Q. You were born in 1885? A. Yes, sir.

Q. And 1894 you were eight years old?

A. I lived there from that time until I got married.

Q. What year were you married in? A. 1908.

Q. Now, before you moved to Olive, where did you live?

A. Lived in the north part of town.

Q. Do you remember the street and number?

A. Kiowa Street.

Q. These boys that you referred to that played along there, where did they mostly live? Between what streets?

A. Well, I judge between Seneca Street and Spruce.

Q. From Seneca to Spruce? That is north and south?

A. Yes, sir.

Q. Between what streets east and west?

A. Fifth and Second.

Q. Did you have a dividing line? A. Well, Fifth Street.

Q. Another bunch of boys on the other side of that line?

A. Yes, sir.

Q. Where did Swipe Smith live, if you know?

A. I think he lived at Third Street between Miami and Osage.

Q. These boys, what would you boys play there?

A. Well, we played marbles, tops and base ball, and at night paper chase and run sheep run, something like that sort.

Q. Paper chase and run sheep run? A. Yes, sir.

Q. Now, in playing together there, did the boys in that bunch as a general rule play all in a bunch?

A. Yes, we were all together; probably two sides; in paper chase there would be two with the paper and the rest would follow you know.

Q. The same bunch played together a good long while, did they? A. Yes, sir.

Q. Do you remember when Alva Adams disappeared and left that crowd?

A. Well, I left the crowd when I was seventeen years old, I should judge. In fact, I haven't seen him from then on.

Q. Did you know the time when Alva left town, or do you recall anything about that? A. No.

Q. Mr. Hunt, was there any boy in that crowd that played with you there that you know of that was an Indian?

A. Not that I know of.

Q. Was there any boy among you that looked like an Indian?

A. No, not that I could say. There was a colored boy that was kind of dark color, Tommy York.

Q. You mean a colored boy, a negro boy of the African race? A. Yes, he was kind of light.

Q. Was there any other colored boy except Tommy York?

A. No, sir.

Q. Now, Tommy was a light colored boy, was he?

A. Yes.

Q. And evidently a negro boy? A. Yes.

Q. Was there any boy that played with you that you used to call Tommy besides Tommy York? A. No.

Q. Did you ever hear in that bunch of a boy called Indian Tommy? A. No, I didn't.

Q. Did you ever hear of a boy called Commodore, or Tommodore? A. No, sir, I didn't.

Q. Do you remember any boy that the boys nicknamed Trailer? A. No, sir, I don't.

Q. Ever hear of that nickname? A. No, sir.

Q. Ever hear of a boy by that name? A. No, sir.

Q. Did you ever know one by that name? A. No, sir.

Q. Did you ever hear of a boy named Tommy Atkins ever playing with that crowd? A. No, sir.

Q. Now, about how many years did you play along with different boys of that same bunch that you have named?

A. I should judge about seven years, seven or eight years.

Q. Did you know a boy named Higgins? A. No, sir.

Q. He wasn't in that bunch of boys that you referred to?

A. Not in that crowd, no, sir.

Mr. Stuart: Your Honor, I don't believe there is a map in this record that shows this town at that time by streets and blocks; here is one prepared by the city engineer.

The Court: Now, you have an exhibit in the record that gives those locations, I understand?

Mr. German: Yes, sir.

The Court: I understand the purpose of this is merely to show the relative location of streets and blocks?

Mr. German: If that is the purpose, why there is no objection. If their object is also to fix the relative location of these houses, the Crilley house, and Letchers and so on, then we will object to that feature of this map.

The Court: Do you care anything about that feature of this map?

Mr. Stuart: No, Your Honor, but I assume this is correct. I don't know whether it is correct or not; do you know, Mr. Bond?

The Court: Just have that identified.

And thereupon, LEE BOND, being sworn, testified as follows:

Examination by Mr. Stuart.

Q. Have you examined this map, Mr. Bond? A. I have.

Q. How long have you lived in Leavenworth?

A. All my life.

Q. Is this a correct map of the City of Leavenworth by blocks and streets as far as you know?

A. Yes, sir, so far as it shows.
Q. So far as it shows? A. Yes, sir.

Witness dismissed.

The Court: It may be marked as an exhibit, and it will be admitted in evidence, chiefly with reference to the general location of the blocks and streets and alleys, and parts of town that it refers to. (Marked defendants exhibit A-24.)

Mr. German: Then it is understood that the description of that map that Judge Stuart has just introduced of the relative locations of the houses there on Seneca street between Second and Third is not to be considered?

Mr. Cruce: Why not?

The Court: * * * I will let them both in.

The thereupon, FLOYD HUNT, further testified as follows:

Cross Examination by Mr. Stuart.

Q. Now, this is a map of Leavenworth, we will say?
A. Yes.
Q. Now, will you point me out what street you lived on—where you lived?
A. Olive street; this is Spruce street; that would be Olive street.
Q. That is marked Olive on this map? A. Yes, sir.
Q. You lived on Olive street right here?
A. Coming this way, would be about here.
Q. You lived on this street over here? A. Yes.
Q. In that direction. Now, let's see; Seneca is down here, isn't it? A. Yes, sir.
Q. How many blocks is that, counting them there?
A. Eight blocks—seven—eight blocks.
Q. Nine blocks; you lived nine blocks from Seneca street, didn't you? A. Yes, sir.
Q. Did you know a boy there name of Osy? A. No, sir.
Q. What was his other name, Osy Mitchell? A. No, sir.
Q. You didn't know Osy Mitchell? A. No, sir.
Q. But you did know Alva Adams? A. I did.
Q. Don't you know Osy Mitchell and Alva Adams run together all the time? A. Not that I know of.
Q. You knew Tommy Owens, didn't you?

A. I knew Tommy Owens, yes, sir.
Q. That is another Tommy, you heard of? A. Yes.
Q. You knew Tommy York, didn't you? A. Yes.
Q. Where did Tommy York live?
A. Why, he lived on Third street, I should judge, about in there, right next to the county jail.
Q. Now, where did Tommy Owens live?
A. Well, I don't know because I never run with him.
Q. You never run with Tommy Owens? A. No, I didn't.
Q. Tommy York and Tommy Owens would play together? A. Not that I knew of.
Q. Alva Adams and Tommy Owens ran together?
A. I can't say.
Q. When you would play with boys down on Seneca street, you would have to go across town eight blocks unless——
A. Well, if they came to Walnut street——
Q. Unless they met you half way, you had to go to Seneca? A. Yes, that is just what they did.
Q. What they did; then you never did play in the Seneca neighborhood, did you? A. No, sir.
Q. Never did? A. No, sir.

Redirect Examination by Mr. Pinson.

Q. But you did play with the boys that you mentioned in the—— A. Yes, sir.

Mr. Stuart: Objected to as leading.

The Court: That is repetition.

Q. Were you ever on Seneca street in those days?
A. Yes, sir, but there was no place where a boy could play on Seneca, Deleware, Choctaw, or Shawnee either—had to go out some other place to play.
Q. To play what? A. To find room.
Q. And play what? A. Play base ball.
Q. That was one of the favorite games, was it?
A. Yes, sir.

Witness dismissed.

Mr. Hill: Your Honor, on the Nancy branch of the case, Mr. German tells me that he has some additional witnesses that he understood will be brought on; we have some additional witnesses. Two of those are matters reserved. * * *

The Court: Well, so far as the rebuttal goes in the case, it is proper. I will hear that but I am not going to open up this case again. Go on.

And thereupon, W. D. WARREN, being called as a witness on behalf of the United States in rebuttal, and being first duly sworn, testified as follows:

Direct Examination by Mr. Pinson.

Q. What is your name? A. W. D. Warren.
Q. William D. Warren? A. Yes, sir.
Q. Where do you live, Mr. Warren?
A. Leavenworth, Kansas.
Q. How old are you? A. 31.
Q. Do you know Floyd Hunt? A. Yes, sir.
Q. Do you know Charles Warren? A. Yes, sir.
Q. Did you have any nickname when you were a boy in Leavenworth? A. Yes; called me Skinny.
Q. Skinny Warren? A. Yes, sir.
Q. Is Charles your brother? A. Yes, sir.
Q. Did he have any nickname?
A. Yes, they called him Steamboat.
Q. Steamboat Warren? You know Alva Adams?
A. Yes, sir.
Q. How old are you, Mr. Warren? A. 31.
Q. When did you first know Alva Adams? A. 1894.
Q. How long from that time on did you know him?
A. Knew him in 1903, I think it was.
Q. Did you play with Alva Adams? A. Yes, sir.
Q. Now, let me ask you to tell the Court what was the occasion of Alva ceasing to be a friend of yours and leaving that community? Do you know anything about that?
A. Why, Alva Adams' family moved away from town, and he went with them, or he got married, one of the two I don't remember which.
Q. You don't remember anything about trouble that he got into?
A. I remember about him having some trouble over stealing some brass.
Q. Did you connect that in anyway with his leaving town?
A. I did not.
Q. Now, from the time in '94 and then on to '98 during those four years, mention the names of some of the boys who played with you and Alva Adams, during the afternoons after school.
A. Well, a fellow named Baker had a couple of boys; Floyd Hunt and his brother, Earnest Endres; Robert Conrad; Tommy Owen; Charlie Owen; Tommy York; and a family of colored boys by the name of Clays; and Brewsters.
Q. Was the Brewster boy in the crowd? A. Yes, sir.

Q. Where did you live along about that time?

A. 220 Cherokee.

Q. Cherokee? A. Yes, sir.

Q. Now, as a general thing where did the boys live, in what section did the boys live that played together?

A. Well, they all lived from Main street to Third street, and from Shawnee to Cherokee outside of Brewster and Hunt.

Q. Where did Brewster live, if you know?

A. In the Ryan Building when we used to play together.

Q. Where did Hunt live at that time?

A. Hunt lived on Olive street.

Q. That is all the boys, some of them were out of that community but they played with you just the same?

A. Yes, sir.

Q. What did you play down there?

A. Oh, we played ball, boyhood games.

Q. Did you know a boy named Conly?

A. Hoddy Conly, yes, sir.

Q. When did you first know him?

A. Well, we played ball and played together during that time.

Q. Now, from about what age to about what age did you play along there with those boys?

A. From about 8 years old on up.

Q. When was the last time you were there, left that group or the group broke up? A. 1903.

Q. Now, did you know a boy named Smith? A. Yes, sir.

Q. Know what his nickname or first name was?

A. Well, we played with a boy named Swipe Smith, Percy was his name.

Q. His name was Percy? A. Yes, sir.

Q. Did you know his mother? A. Yes, sir.

Q. What was her name?

A. I don't know her first name.

Q. Where did she live?

A. I didn't really know where she lived at the time but it seems to me about 217 Shawnee.

Q. The streets along there run Seneca street, from Seneca on down to Cherokee, run through the names of the streets along there.

A. Seneca, Shawnee, Delaware and Cherokee.

Q. Now, between what streets that ran north and south mostly, did those boys live?

A. Between Third street and Main street.

Q. Between Third and Main, and between Seneca and Cherokee? A. Yes, sir, out side of three or four of them.

Q. Did you ever know a young [] named Higgins in those days? A. Yes, sir, two or three of them.

Q. Well, is there a Higgins related to Alva Adams in any way by blood or marriage?

A. Yes, sir, Tom Higgins married his sister.

Q. What was Tom Higgins doing the day you are referring to now? A. Driving a team and wagon.

Q. Do you recollection the boy had with Tom Higgins and that wagon?

A. We rode around with him is all I reckon.

Q. He permitted you to ride?

A. No, sometimes he would and sometimes he wouldn't.

Q. Was there any other colored boys besides those you mentioned, Tommy Owens and——

A. Tommy Owens was a white boy.

Q. Tommy Owens was a white boy? A. Yes, sir.

Q. What was Tommy York, you mentioned that name?

A. He was a colored boy.

Q. Light or dark? A. Light.

Q. Did you know a boy that played with you there during any of those years that you considered an Indian?

A. No, sir.

Q. Did you know any boy that looked like an Indian that played with you? A. No, sir.

Q. Did you know any light colored mulatto boys other than those you mentioned? A. No, sir.

Q. Or part negro boys? A. No, sir.

Q. Did you ever know a boy that played with that bunch named Tommy Atkins? A. No, sir.

Q. Did you ever know any other Tommy than those you named?

A. No colored boy played with us but Tommy York, named Tommy.

Q. Did you ever know a boy named Commodore, or nickname Commodore who played around with you? A. No, sir.

Q. Or Tommodore? A. No, sir.

Q. You remember ever playing a game called war?

A. No, sir.

Q. Did you ever have a boy in the bunch that you nicknamed the Trailer? A. No, sir.

Q. Did you ever have a boy named Trailer that played with you? A. No, sir.

Q. Now, did you boys ever play up around on Seneca street? A. I have, yes, sir.

Q. You have? Who did you play with up around Seneca street? A. One named McDuska, Johnny Widley, and Eli.

Q. Now, at what place on Seneca street was it that you played?

A. We played over at the *D*eDuska's yard and Widley's yard.

Q. In the yards? A. Yes, sir.

Q. Where is that house located?

A. One is 208 Shawnee and the other 222.

Q. Shawnee? A. Yes, sir.

Q. Did you ever play on Seneca street? A. Yes, sir.

Q. What place on Seneca?

A. Around Crilly's barn and Van Tuyl's barn.

Q. What years was it you played around there if you can remember? A. It was just about the same time.

Q. Along the same time? A. Yes, sir.

Q. Were there any other boys who played around Crilly's barn there which you can think of besides those you named? A. Outside of George Crilly's two boys.

Q. What was those two boys names?

A. Elof and the other Arthur.

Q. Were Elof and Arthur older or younger than you?

A. Both were older than me.

Q. How much?

A. I can't say; probably two or three years.

Q. Did you know George Crilley? A. Yes, sir.

Q. Know his partner at that time, a man in business with him?

A. I didn't know of him having any partner at that time.

Q. Do you know Mr. Cranston?

A. I know Mr. Cranston, yes, sir.

Q. What business was he in at that time?

A. Livery business.

Q. There with Crilley? A. No, sir.

Q. He was in another place at that time, was he?

A. Yes, sir.

Q. Do you remember an old colored woman living over on Seneca street across from Crilley's barn?

A. I know of an old colored woman, yes, sir.

Q. By what name? A. Granny Letcher.

Q. Do you know anything about her family, who lived around in the house there with her? A. No, sir.

Q. Did you know any boys who lived around in there?

A. No, sir.

Q. Did you ever see any boys, or play with any boys, connected with Granny Letcher there? A. No, sir.

Q. You did play, though, around Crilly's barn, in this bunch? A. Yes, sir.

Q. Did you ever play in Granny Letcher's yard?

A. No, sir.
Q. Never had anything to do with that particular house?
A. No, sir.
Q. Did you know her personally? A. No, sir.

Cross Examination by Mr. Bond.

Q. How old did you say you were? A. *A* 31.
Q. Haven't you heard your father talk about Granny Letcher's place, about Indian Minnie and Indian Tommy? Did you ever know of your father talking about them?
A. I have heard my father talk about them, yes, sir.

Mr. Pinson: Objected to, if the Court please.

The Court: If it is sometime later, it is objectionable.

Mr. Pinson: That is the reason; the time is not fixed.

The Court: No.

Q. Now, the Crilley boys were a little older than you?
A. Yes, sir.
Q. In fact they were kind of leaders of that gang, weren't they?
A. No, sir, they wasn't leaders, they herded cattle for their father; herded cattle on the reservation.
Q. You boys played in that neighborhood?
A. Played on Shawnee then.
Q. Hunt played with you then?
A. No, Hunt wasn't playing up there.
Q. Hunt didn't play with you in that part of town?
A. No, sir.
Q. When your gang was going north, you didn't play with Hunt? A. Wasn't going north.
Q. Seneca street is north, isn't it? A. Yes, sir.
Q. You say your gang was composed of boys made up from boys from Fifth street east and Seneca street south, is that right?
A. I said the boys lived in the neighborhood of Main street and Fourth street and Seneca street south.
Q. How far south? A. Well, Hunt lived on Olive.
Q. Well, that takes about a third of the city, then, the district of which this gang of yours was in?
A. Third—I don't know whether it does or not.
Q. Hunt though—you never remember of him playing up there when you played with the Crilley boys? A. No, sir.
Q. You remember that distinctly? A. Yes, sir

Q. Now, you played with Osy Mitchell, didn't you?
A. Yes, sir.
Q. You hadn't thought of him before had you?
A. No, I didn't think of him.
Q. How about Will Clay? A. The Clay boy?
A. Yes. A. Played with him.
Q. And Peter Baker? A. Yes, sir.
Q. You knew Alva, of course? A. Alva Adams?
Q. Yes. A. Yes, sir.
Q. He played with your gang? A. Yes.
Q. You remember his being arrested? A. Yes, sir.
Q. What year was it? A. I don't remember what year.
Q. Well, what is your best judgment?
A. I can't say; the same time that us boys were going to school; we quit going to school in 1902.
Q. Two years before you quit school, or six years or eight years, or what? A. I can't tell that.
Q. Can you come within ten years of it?
A. Yes, I can come within ten years.
Q. Well, give us your best judgment?
A. Well, it was between that time I moved on Cherokee.
Q. You moved on Cherokee in 1894? A. Yes, sir.
Q. And moved away in 1903? A. Yes, sir.
Q. And you played with Alva Adams every year between those years? A. Sir?
Q. You played with Alva Adams every year between those years? A. Between ninety-four and 1903.
Q. Yes, and you are sure of that?
A. Yes, sir, I played with him at that time.
Q. And you are just as sure of that as any other fact you have testified to here, are you?

Mr. German: That is objected to as argumentative.

The Court: Overruled.

A. I remember playing with him.
Q. I asked if you played with him ever year from 1894 to 1903? A. I couldn't say I played with him every year.
Q. How many years didn't you play with him between that time? A. I don't know.
Q. You didn't play with Alva after 1899, he didn't go with you at all, and wasn't there, isn't that the truth?
A. No, sir.
Q. He didn't go to St. Joe?
A. I didn't say he didn't go to St. Joe.
Q. He didn't go there and live for a year and eleven months between the dates you have mentioned?
A. I don't know.

Q. Do you remember of him going up there? A. No, sir.
Q. Who was arrested with him?
A. I think it was Ed Baker and Clay.
Q. And Clay? A. Will or Clay.
Q. Can you give the Court an idea about how many times that you have served sentences in the city and county jail?
A. Yes, sir.
Q. How many? A. Seven months.
Q. How many different times have you served in the city and county jails? A. Four times in the county jail.
Q. How many in the city jail?
A. I never served there, I was in there three days getting bond.
Q. How many bonds are you under now?
A. About eight or nine.
Q. For appearance in the District Court? A. Yes, sir.

Mr. Pinson: Is Tommy York living or dead?

A. He is dead.

(Witness dismissed.)

And thereupon, ANANIAS ATKINS was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Ananias Atkins.
Q. Where do you live?
A. I live two miles north of Preston, Oklahoma.
Q. Were you born in Missouri? A. Yes, sir.
Q. You are a son of Dick Atkins? A. Yes, sir.
Q. Did you have a brother named Thomas Atkins?
A. Yes, sir.
Q. Was he born in Missouri? A. Yes, sir.
Q. Did he come down to this country with you?
A. Yes, sir.
Q. What year was that, about what year?
A. Well, I couldn't say, I was quite young myself.
Q. That was when your father moved down here?
A. Yes, sir.
Q. How much older are you than Thomas?
A. Well, I am about—— Well, I would have—— I have never given it close attention.
Q. Well, are you any older?
A. Yes, sir, I am a right smart older than he is.
Q. Is he living or dead? A. He is dead.

Q. About when did he die?
A. He died in the fall in 1898.
Q. During the last years of his life where did he live?
A. At Wagoner. That is, ten miles northwest of Wagoner.
Q. About how old was Thomas when your father and mother brought you down there?
A. Well, I couldn't hardly say.
Q. Was he a small child?
A. Yes, sir, he was a small child.
Q. Did your brother Thomas go to Wagoner very often during the time he lived in the country?
A. Yes, sir, he went there very often.
Q. Do you know where your family traded during that time? A. Yes, sir.
Q. Where? A. At Davis & Jones.
Q. Do you know Nancy Atkins?
A. I have known her, yes, sir.
Q. What kin is she to you?
A. My father said she was my aunt.
Q. Your aunt? A. Yes, sir.
Q. Did Thomas do any work around Wagoner?
A. Well, yes, sir, he hauled wood to Wagoner all the time.
Q. Who would go with him?
A. Well, most of the time he would go with his father.
Q. About how old was Thomas when he died?
A. As near as I can remember my brother, his age at the time that he was buried, he was thirteen years old three months and some days, I can't remember the days just now.
Q. When he died? A. Yes.

Cross Examination by Mr. Rosser.

Q. You and this Thomas Atkins you speak of are children of the same parents, that is you have the same father and same mother? A. Yes, sir.
Q. When was it you came down from Missouri?
A. I couldn't say, I don't recollect.
Q. How old are you now? A. I am past thirty-six now.
Q. How old were you when you came down to this country? A. Oh, I don't remember that.
Q. Well, do you know about how large you were, you remember coming down? A. Oh, yes, sir.
Q. How did you come through, in a wagon?
A. No, sir, on a train.
Q. Give us your best judgment as to how old you were when you came down here?

A. Well, as near as I can gather it was near eight or nine years old, but I am guessing at it.

Q. Your brother, Thomas, how old was he?

A. Well, he couldn't have been—— I am not positive of this, I am guessing now—— He couldn't have been over I don't know, I just couldn't say.

Q. How much older are you than he?

A. Well, I couldn't say.

Q. You were older? A. Oh, yes, sir.

Q. Do you remember your trip down here? A. Yes, sir.

Q. Don't you remember how much older or how much larger you were than he was at that time?

A. I was quite a little bit larger.

Q. Was he old enough to walk and talk? A. Oh, yes, sir.

Q. Could walk around by himself? A. Yes, sir.

Q. Didn't have to be helped on the train?

A. Just had to see after him.

Q. You say you know Nancy Atkins?

A. I have known her.

Q. How long have you known her?

A. Only just to see her is all.

Q. Now, your brother lived at your father's house, didn't he? A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. You have known of him hauling some wood to Wagoner, but you never knew of him going there to stay a long period at a time?

A. Well, not no time, two or three days at a time. I have knowed him to be there two or three days at a time.

Q. That would be when some member of the family would go over there? A. Yes, sir.

Q. Your father made you and your brother work?

A. Yes, sir.

Q. Now, where was your brother when he died?

A. He was at home.

Q. How far was that from Wagoner? A. Ten miles.

Q. Where was he buried?

A. He was buried about a mile and a half or two miles south of our place.

Q. Where you lived? A. Yes, sir.

Q. Your father was a pretty well to do man, he made a living for his family?

A. Yes, sir, he provided a living for them.

Q. You *are* your brothers didn't have to live around among people to live, you lived at home with the family, did you, your father's family? A. Yes, sir.

Q. You are of African blood, you are a negro? What degree blood, you are fullblood aren't you?

A. Well, I think they say I am an eighth Indian blood.
Q. Say you are an eighth Indian blood and the balance is negro blood? A. Yes, sir.
Q. Your hair has the ordinary appearance of an ordinary African colored people's hair, hasn't it?
A. I suppose so, yes, sir.

Redirect Examination by Mr. Allen.

Q. What was your mother's name? A. Sally Atkins.
Q. She was the mother of Thomas? A. Yes, sir.

(Witness dismissed.)

And thereupon, MARY WILSON was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Mary Wilson.
Q. Was your name, Mary Atkins?
A. Mary Wilson, I said.
Q. I know, but before you were married, what was your name? A. We went by Harris or Atkins.
Q. What was your father's name? A. Richard Atkins.
Q. What was your mother's name? A. Sally Atkins.
Q. Is your father living? A. No, sir.
Q. Is your mother living?
A. Yes, sir, they say she is, I don't know exactly.
Q. Do you know where she is?
A. They say she is in Canada, I don't know exactly.
Q. Do you have a brother Thomas Atkins? A. Yes, sir.
Q. Where was he born? A. In Missouri.
Q. Did he come down here with you? A. No, sir.
Q. Who came first? A. My daddy.
Q. And who came first of you and Thomas, which one of you came first? A. Thomas.
Q. When did you come down to the Indian Territory?
A. I don't know exactly. They was here a good while before I come.
Q. Do you know what work Thomas did when he was working out there near Wagoner?
A. He was plowing and hauling wood.
Q. Hauled wood where to? A. Wagoner.
Q. Is he dead? A. Yes, sir.
Q. About how old was he when he died?
A. About thirteen.

Cross Examination by Mr. Rosser.

Q. Which was older, you or Tom? A. I was.

Q. How much older?

A. I don't know, sir, how much.

Q. Well, do you remember when he was born?

A. No, sir, not exactly.

Q. Not the date, but do you remember the fact of his being born? A. Yes, sir.

Q. Well, how old were you then? A. Forty-six.

Q. How old were you when your brother, Thomas, was born? A. Well, I don't know, sir.

Q. You say you remember when he was born, were you three or four or five years old, about how old?

A. Well, I reckon I was about seven or eight, may have been older, I don't know.

Q. How long—— Thomas came down here with your father, did he, before you came? A. Yes, sir, before I come.

Q. Do you remember how long he had been here before you come down? A. No, sir, not exactly.

Q. How old were you when you come to this country, were you a grown woman? A. Yes, sir.

Q. Were you married? A. Yes, sir.

Q. Well, how old were you when you married?

A. I don't know that.

Q. You don't know that? A. No, sir.

Q. Do you know how long you had been married when you came here? A. No, I don't know that.

Q. About how long?

A. Well, I reckon I had been married—— I don't know, I had three children.

Q. You had about three children when you came here?

A. Yes, sir.

Q. Well, how old is your oldest child now?

A. Twenty-five.

Q. And how old is your second child?

A. I don't know exactly.

Q. You don't know how far apart those children came?

A. No, sir.

Q. And you don't know how long it was until the third one came? A. No, sir.

Q. But you had three children when you came here?

A. Yes, sir.

Q. About how old was the youngest child when you came?

A. About a year old.

Q. Well, how long had you been married when your father came to this country, or about how long? You married before your father left Missouri? A. Yes, sir.

Q. How long had you been married when he come down here?

A. I think I had been married about two years if I make no mistake.

Q. Did you live with your father's family after you came here? A. I stayed on their place?

Q. You didn't live in the family?

A. No, I stayed in the house a while.

Q. That was when you first came? A. Yes, sir.

Q. How many children did your father have at the time he moved down here, that he brought with him?

A. How many did he bring?

Q. Yes? A. He didn't bring but one with him.

Q. Who was that? A. John Henry.

Q. Well, didn't he bring Thomas with him?

A. Thomas come with Ma.

Q. How many did your Ma bring? A. I don't know.

Q. You don't remember how many there were of you?

A. Yes, sir, there was thirteen of us.

Q. How many of you remained in Missouri when your father came—— Well, I don't know that that is very important if you can't remember.

Q. Your father was a working man? A. Working man.

Q. And he made a living for his family, did he?

A. Yes, sir.

Q. The children that were not married lived at home with him? A. Yes, sir.

Q. And your brother Thomas lived with your father up to the time of his death? A. Yes, sir.

Q. And he was living there when he died? A. Yes, sir.

Q. And was buried near where your family lived?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. You were all working boys and girls were you?

A. Yes, sir.

Mr. Rosser: I wasn't through with my examination.

Cross Examination by Mr. Rosser.

Q. You are of African descent, that is you are colored people, your father's family, your brother Thomas was a colored boy and you are a colored woman of African blood, that is right, isn't it? I say that is right, you are of that race of people? A. I reckon.

The Court: You are of the negro race, aren't you?

A. Yes.

Q. And you and your brother Thomas were of the same father and mother? A. Yes, sir.

Q. You say your mother is now in Canada?

A. Yes, sir, they say, I don't know.

Q. Now, do you know when your brother Thomas died, did you say it was in 1898—— Well, do you know about when he died, about what year?

A. No, he died in the fall.

Q. You don't know what year? Do you know whether your father tried to get him on the rolls of the Creek Nation?

A. No, I don't know.

Q. You don't know anything about that? A. No, sir.

Cross Examination by Mr. Stuart.

Q. You live at Bristow now, don't you? A. Yes, sir.

Q. When did you go up there, many years ago or recently?

A. About a month ago.

Q. You have been living down in this country before you went over there? A. Down where?

Q. Near Wagoner? A. Yes, sir.

Q. And your brothers and sisters all of you used to do what work you could around the place? A. Yes, sir.

Q. Your father raised you to work, didn't he?

A. Yes, sir.

Redirect Examination by Mr. Allen.

Q. Is your sister in town? A. Which one?

Q. Nancy? A. Yes, sir.

Q. Is she sick today? A. Yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, we want to get Adas Wright's height into the record.

The Court: All right. Let Adas Wright come in.

Mr. German: Now and then on both sides in cross examining witnesses who have testified previously, we have asked them with reference to whether they testified to certain things in their former testimony. And as a rule, Your Honor will remember, they have admitted it, but now and then they have denied it. As far as our side is concerned we are willing to agree that they testified according to the way the testimony was read to them in making those inquiries and save all sides the necessity of making affirmative proof.

The Court: I thought that was covered by the agreement the other day.

Mr. German: It was with the agreement as to Nancy and Minnie, but I don't remember if it was to cover the other witnesses.

The Court: It is suggested by counsel that in addition to the examination of Minnie and Nancy Atkins, there is the examination of other witnesses wherein was read to them certain testimony that they gave at certain other times and in some instances they said they had so testified and others that they hadn't. May the agreement that was made with reference to Minnie and Nancy Atkins apply to all other witnesses?

Mr. Cruce: I think so. I don't think that agreement was that each party was to agree that the witness at the former time had testified. I think the agreement should be that the stenographic report shows that they gave the testimony on the different occasions.

The Court: That is what I had in mind before. Of course, we have the stenographic report, but the stenographer is not here and I probably will have to understand the stenographer took it down as he understood it.

Mr. German: So that will save us making that proof on both sides.

The Court: I will consider it as if at some period of this case you had offered that point of the stenographer's transcript and the court had admitted it as such parts of the stenographer's transcript from various other cases.

Mr. Beall: If the court please, in the enrollment of the Dick Atkins family, there has been some question as to the town on which they were enrolled by the Creek tribal authorities. The Government will agree that the Dick Atkins family, who have testified here, Chaney Trent, Mary Wilson, Ananias Atkins, and the other members of the Dick Atkins family, were enrolled by the Creek tribal authorities on the Arkansas Colored Town on both the 1890 and 1895 payrolls; that they were never enrolled on the Euchee Town.

Mr. German: And that those surviving the date April 1, 1899, have been enrolled by the Commission and allotted as coming from Arkansas Town.

The Court: Are they enrolled as Freedmen?

Mr. Beall: They are enrolled upon the Indian roll.

The Court: And as coming from the Arkansas Town?

Mr. Beall: Coming from Arkansas Colored Town.

Mr. Allen: And that those who died before April 1, 1899, have been so adjudged by the Commission and the Secretary.

The Court: Mrs. Wright, they want to get your height. Just take off your veil and hat and stand over there by the door and let them get a straight edge and mark it.

Mr. German: Her height is five feet three inches.

And thereupon, ADAS WRIGHT was recalled for further redirect examination and testified as follows:

Redirect Examination by Mr. Allen.

Q. I would like to ask one question.

The Court: All right.

Q. How long after your sister married and went to Leavenworth to live was it that you went there to visit her?
A. About two or three weeks after she was married.
Q. You went there and stayed sometime with her?
A. I stayed a week.
Q. You were there off and on afterwards? A. Yes, sir.

(Witness dismissed.)

And thereupon, J. K. McCLAREN was called and sworn as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Hill.

Q. State your name, age, and residence?
A. J. K. McClaren, forty-three years old, I live at Warner.
Q. What is your business?
A. I am farming and stock raising.
Q. Did you ever live at Wagoner? A. Yes, sir.
Q. When? A. From about 1885 to 1891.
Q. Do you know when you left there?
A. Yes, I left there in the summer of '91.
Q. About what age were you then in the summer of 1891?
A. Seventeen or eighteen years old, nineteen years old, something like that.

Q. Just prior to leaving there, the last two or three years, what were you engaged in doing?

A. Well, my folks were there, and the work I did, I worked in the Davis & Jones Store in the winter time most generally and would work out on a ranch in the summer time. I was just a boy.

Q. How long did you work in the Davis & Jones store in the winter time?

A. I probably worked in there two winters, previously I worked in there, off and on at different times.

Q. The two winters you worked there then was the winters of 1889—'90 and 1890—'91? A. Yes, sir.

Q. Were you acquainted with Nancy Atkins there?

A. Yes, sir.

Q. When did you get acquainted with her about?

A. Well, I knew her off and on there when I was just a young fellow at the time practically from probably 1887 to the time I left in 1891.

Q. You knew her up to the time you left? A. Yes, sir.

Q. Do you know definitely when you got acquainted with her? A. No, not the first time, I don't remember exactly.

Q. Do you know where she was living the last two years you were there when you were at Davis and Jones store?

A. I couldn't say just how long at different places; she lived I couldn't tell you to tell the places.

Q. Well, just mention the places you knew of?

A. Well, she lived in a tent in the back part of the mercantile establishment lumber yard at one time. She stayed with some darkies by the name of Birney and she stayed with some darkies by the name of Williams I think, several places about there, she didn't seem to stay at one place very long.

Q. Do you know where she was working?

A. Well, she worked at various places; she washed for my mother at the hotel there.

Q. At what hotel?

A. It was the Bernard Hotel at that time.

Q. And she worked there?

A. Yes, she worked there, washed dishes sometimes but most of the time in the laundry.

Q. Any other places you knew of her working there?

A. Well, I think she worked at several other places and hotels; my understanding that she washed most of the time.

Q. Do you know whether Nancy had a child?

A. Yes, sir, she had a child.

Q. Tell the Court what you know about it, when you first saw it and how long?

A. I don't remember very much about it when it was right little; the most distinct recollection I have it must have been about ninety or ninety one, there was a little child probably not more than a year and a half old, couldn't talk. It was in dresses; as to whether it was a boy or girl, I couldn't say, but I saw it on hundreds of occasions living right there close; see her come in the store and be about.

Q. Constantly with it?

A. Well, she left it when she would go out to work, but I have seen her many times come to the store with the little fellow. They lived probably not more than a couple or hundred yards from the store and I would see it on the street and see it with the Birney children.

Q. Do you recall its appearance?

A. Yes, I remember just about how it looked.

Q. Well, tell the court how it looked?

A. It looked like it might be pretty badly mixed blood; rather yellow colored, not exactly kinky hair but rather stringy like hair.

Q. State whether the appearance was of African race, Indian race or white race?

A. That would be pretty hard for me to say; it looked like it might be of a mixed blood of all, I couldn't tell about that.

Q. You don't know whether it was a boy or girl? A. No.

Q. I suppose you knew at one time but don't now?

A. I am quite sure I did.

Q. I don't suppose you would know its name?

A. No, sir, I wouldn't know.

Q. Do you know about Nancy being sent to the penitentiary about 1890, do you remember that event?

A. No, sir, I do not. I left there in the spring of '91, might have seen her there after that time. I meant to say when I left then I went out in the country and worked on a ranch, I might have seen them after, but that is my recollection now.

Q. I wish you would describe its face to the Court in the summer of 1891 when you left there in your last distinct recollection?

A. The last distinct recollection I have of the child was that it was possibly a year and a half old, not to exceed two years; if it could talk it didn't. That is, in my presence. It possibly could have said a few words, but it wasn't big enough to be talking.

Q. About—— How about walking?

A. Oh, yes, it could run around, but it seemed like to my recollection it was about a year and a half old.

Q. You have a distinct recollection of it at that time, and none absolutely since then?

A. If I ever saw it I don't remember.

Q. Mr. McClaren, do you know whether there was a general understanding in the community of Wagoner as to who was the mother of that child you have described to the Court?

The Court: You may answer that yes or no.

A. Yes, sir.

Mr. Hill: Your Honor, I am going to lay the same offer, but before I ask the next question I want to suggest this additional to Your Honor.

The Court: Well, Mr. Merrick's testimony, that is very plain to my *kind*. that the initial circumstances that caused the placing of this name on the roll at all, was the fact that it appeared on the 1895 roll; that started the investigation.

Mr. Hill: Unquestionably.

The Court: Now, Nancy Atkins contends that that name on the 1895 roll represented her son Thomas Atkins. You are attempting now to establish the fact that Nancy Atkins did have a child; that you are starting out to do as a foundation for, after she establishes that she had a child, that that was the child put on the roll. Now, the question here is as to the pedigree of this particular child and its relation to Nancy. I don't think the fact that the Commission gave greater latitude * * * I am inclined to adhere to the ruling heretofore made.

Mr. Hill: We offer to prove by Mr. McClaren that he had lived in that county six or seven years prior to leaving it in the summer of 1891; he was well acquainted with Nancy Atkins and frequently saw the child which he has described here and the general reputation in that community and the general understanding of the people in that community was that that child which he has described was the child of Nancy Atkins.

Mr. German: We object.

The Court: Objection will be sustained and your exceptions noted, Judge Hill.

Cross Examination by Mr. German.

Q. Mr. McClaren, you remember—you realize that it has been about twenty-seven years since 1890, don't you?

A. Yes, sir; yes, sir.

Q. And yet you say to the court that you are able to describe that child? A. Yes, sir.

Q. Did you know any other children in Wagoner at that time?

A. Yes, I probably knew all the children there; it was a very small town at that time.

Q. Yes, sir, how many children were there at that time?

A. Well, there was but very few about that age; it was a very small town.

Q. What other child was there about that age?

A. Well, the Birney children were there, darkies.

Q. How many? A. Two or three of the Birney children.

Q. Now, were there two or three?

A. There were three and probably more than that. I remember two boys and one girl very well.

Q. Two boys and one girl? A. Yes, sir.

Q. What were the ages of those three children?

A. Henry, I think was the oldest one staying at home at that time; he was probably—he was probably ten years old—possibly twelve.

Q. What was the color of his hair?

A. Well, he was black from head to foot.

Q. He was black all over? A. Yes, sir.

Q. Was his hair kinky or straight? A. Yes, sir, kinky.

Q. Kinky? A. Yes, sir.

Q. And his eyes were black, of course? A. Yes.

Q. Now, what was the name of the other one of the three Birneys?

A. I think there was a younger boy close to him in age; his name was Richard.

Q. Richard, and he was black?

A. He wasn't quite so black as Henry.

Q. Do you remember just what shade he was?

A. He wasn't what you would call a right black darky, yet he was a little light. He had a sister about his age, I think probably a year younger—I am not sure about her age, but about the same size; she was still lighter than he was.

Q. Just describe her color. [A.] Well, she was what you would call a chocolate yellow.

Q. Chocolate yellow? A. Yes, sir.

Q. Now, how old was the little girl when you left there?

A. Well, I guess she was seven, maybe eight years.

Q. Seven or eight?

A. Yes, sir. Of course, that is guessing.

Q. How old was the second boy Richard?

A. He was a little older.

Q. And the other one was still a little older than——

A. Still a little older, probably the oldest might have been twelve years old.

Q. What was this girl's name? A. I can't tell you.

Q. Don't you remember?

A. I don't remember what her name was.

Q. Well, did you know her name?

A. I probably did, yes, sir.

Q. Well, can't you tell us just exactly how old she was?

A. No, sir, I can't tell you how old this child was; just a good guess is all.

Q. What time in 1891 did you leave Wagoner?

A. I left there in the spring but I was back during the summer of '91; I worked on a ranch, our probably ten miles from town, and I was back at different times during the summer, but that fall I left there—went to Pine Bluff, Arkansas, and I wasn't there much after that.

Q. You were just there off and on in the summers?

A. Yes, just off and on.

Q. You left there for good—that is, you discontinued your permanent residence there in the spring of 1901? A. Yes, sir.

Q. Well, you understand mother and father live there, and I just was a young boy and I was working out on the ranch, just a rise of grass, probably about the first of April I went out to work on the ranch.

Q. How old were you at that time?

A. Well, I would have to figure it up a little bit.

The Court: When were you born—in what year?

A. Born in '74.

The Court: '91 you were about 17 years old?

A. Yes, sir.

Q. What is your birthday? A. The 19th of April.

Q. Then the 19th of April, '91, you was 17 years old?

A. About that.

Q. So you were 16 years old in the spring of '90?

A. Yes, sir.

Q. Did you have any sweethearts at that time?

A. Well, I never did have very many.

Q. You did have a girl, though, didn't you?

A. I don't remember.

Q. Don't you remember that you did?

A. It was a little bit early for me to start out.

Q. Well, did you go to school?

A. Yes, sir, I went to school there one term.

Q. One term at Wagoner? A. Yes, sir.

Q. While you were in school who was your teacher?

A. I am not sure but I think a lady by the name of Spriggs.

Q. Spriggs? A. Yes.

Q. You went to school all that winter?

A. Well, I can't tell you; I didn't go to school very much.

Q. What year was it you went to school?

A. I can't tell you exactly the last winter I did go.

Q. You don't remember? A. No, sir, not exactly.

Q. What kind of looking woman was the school teacher you mentioned.

Q. Well, she was—I understood that she was an unmarried lady and probably thirty years old; rather tall. She had relations that lived there in town.

Q. She had relatives living there in Wagoner?

A. Yes, sir.

Q. What was their names?

A. Well, she had a brother who was there; his name was Spriggs.

Q. What was the color of that school teacher's hair?

A. I can't tell you. I can't recollect.

Q. Was there any mark on her face of any sort, any mole or anything of that kind?

A. I probably wouldn't know her if I would see her today.

Q. You wouldn't know her if you would see her today? You went to school to her all that school session that winter?

A. Well, I went to school very little.

Q. But you would know this little child if you would see it today, wouldn't you? A. No, sir.

Q. You never did see Nancy in a family way did you?

A. If I did, I don't recollect it now.

Q. You don't recollect it if you did? A. No, sir.

Q. You left there in the spring of '91 and that child was from a year to a year and a half old?

A. Something like that; toddling around.

Q. Toddling around? A. Yes.

Q. How old, now, was that child the first time you ever saw it?

A. I was there when the child was born but I don't remember—the most distinct recollection that I have of the child was after it got big enough to run around town and was continuously on the street. It was a little country town with wooden sidewalks that everybody's kids played on the sidewalks, and I came in contact more or less with the child in front of the store, or on the sidewalk passing.

Q. You have some children of your own? A. Yes, sir.

Q. What time was the first time—how long before the spring of '91 was it, that you first noticed this child running around on the street?

A. Well, it was probably—I can't say that I saw it in the spring of '91; I say somewhere around '90 and '91 was the last time that I saw it.

Q. Sometime possibly in '90? A. Possibly in '90.

Q. Was it warm weather?

A. Well, it was warm and cold, I expect, both; it was continually on the sidewalk there.

Q. A little child a year old was running around in cold weather of '91?

A. It probably would not be—some of the coldest days we had, there were probably some warmer days.

Q. You knew Nancy from '85 on up until you left there, didn't you? A. Well, I knew her several years.

Q. Several years? A. Several years.

Q. And when you left there in the spring of '91, she was taking care of this child? A. Yes, she was there.

Q. You remember that? A. Yes, sir.

Q. Now, Mr. McClaren, you didn't know that she went to the penitentiary in 1890 and stayed eight months, did you?

A. If she went to the penitentiary, I didn't know it, no, sir.

Q. You didn't know about that? A. No, sir.

Q. The woman you are talking about didn't go to the penitentiary in the winter of '90 or '91.

A. I don't know; she might have.

Cross Examination by Mr. Stuart.

Q. What time did you go there to Wagoner?

A. We went there just a few months before the Iron Mountain Railroad went in there.

Q. Well, what year was that?

A. Well, I can't tell you sir.

Q. Well, was it '89? A. No, it wasn't '89.

Q. Was it '88?

A. I can't say; it was some where to the best of my recollection, somewhere about '84 or '85.

Q. About '84 or '85?

A. That is my best recollection.

Q. Then you were there when Nancy Atkins came to Wagoner, weren't you?

A. I don't know when she came.

Q. If she came in '89 or '90, you were there?

A. I was there, yes, sir.

Q. You were there in '88 and '87?

A. Yes, sir, I was there.

Q. And you never saw her pregnant while you were there?

A. If I did, I don't remember it.

Q. Well, now, you know you didn't see her pregnant, don't you? A. No, sir.

Redirect Examination by Mr. Hill.

Q. Mr. McClaren, Mr. German asked you if the woman you saw went to the penitentiary. I believe you said you didn't know whether Nancy went there or not. Did you know Nancy Atkins well?

A. I knew her well, very well.

Q. You knew her there from the time you came until you left? A. Yes, sir.

Q. No question in your mind that this woman that had this child that you describe was Nancy Atkins?

A. For a period of at least three or four years, I saw her nearly every week at least. I might have been in the country part of the time—my folks lived in town and I worked out any place that I could get work; worked in a store maybe a week or so, and would work out at the——

Q. The point I want to get at is, that you know Nancy Atkins? A. Oh, yes, I know her.

Q. You are not mistaken about that? A. No, sir.

Recross Examination by Mr. German.

Q. You were not present at the birth of any child to her, were you? A. No, sir.

Q. Now, you haven't any personal knowledge as to whose child that was, have you? I am not talking about reputation; you don't know whose child that was, do you? Now, just be frank about it, Mr. McClaren, if you know.

A. I know that she claimed it.

Q. Well, that is different. I say you don't know, you have no personal knowledge as to whose child that was?

A. Not more than what—her claiming, not more than that.

(Witness dismissed.)

And thereupon, J. H. ANDERSON, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. J. H. Anderson.

Q. How old are you Mr. Anderson? A. 55 years old.

Q. Where do you live?

A. Live six miles east of Wagoner.

Q. Have you ever lived in Wagoner? A. Yes, sir.
Q. What years did you live in Wagoner?
A. Well, I have lived in Wagoner more or less ever since '83.
Q. '83; you went there first in '83? A. Yes, sir.
Q. And then how long did you live there then?
A. Why, I lived there—my home, as far as that goes; I made that my home for about 15 years; of course, in and out.
Q. You went there in '83, now how long did you live there before you moved away?
A. As I say I made that my home there about 15 years, would be out at work but I would make Wagoner home.
Q. Well, what year did you leave there to go somewhere else?
A. Well, I left there and went to Coweta in '92, if I ain't mistaken.
Q. '92; that is 1892? A. 1892, yes.
Q. Now, did you know Nancy Atkins when you lived in Wagoner? A. Yes, sir.
Q. When did you first know her?
A. Well, I hadn't been around there for, oh, probably a year or two before I seen her around there; worked at——
Q. Did you ever see her in a pregnant condition?
A. Well, I don't remember whether I did or not see her while she was in that shape.
Q. Did you ever know of her having a child?
A. I seen her leading one once and she said it was hers.
Q. About when did you see that?
A. Well, that was sometime about 1900 as well as I remember.
Q. You mean 1900 or 1890? A. 1890, I mean.
Q. About how old was the child, would you think it was?
Q. Well, I taken it to be probably two or three, or three or four months old at that time.
Q. You say it was nursing the breast? A. Yes, sir.
Q. Now, you stayed there you say until 1892? A. Yes.
Q. Did you see the child after that? A. Oh, yes.
Q. You remember of Nancy going to the penitentiary?
A. Yes, sir.
Q. Do you remember when she returned?
A. Well, no, I don't remember just when she did come back.
Q. Well, did you see her after she came back?
A. Oh, I seen her after she came back, yes, sir.
Q. Do you know where this child was while she was gone?
A. Well, as well as I remember, old lady Betsy Birney took care of this child.
Q. You saw it around there?

A. Saw it around with Betsy's children.

Q. Now, after she came back, did you see the child with her? A. I seen it going around with her, yes.

Q. Now, after you went away from there and went to Coweta did you see it any more?

A. No, I never seen it any more after I went to Coweta.

Q. When did you go back to Wagoner?

A. Well, I came back there to stay in 1903.

Q. 1903; did you see the child?

A. No, I didn't see it.

Q. Did you see Nancy? A. I seen Nancy, yes.

Q. Did you learn what had become of the child?

A. Well, I asked her where the kid was and she said it was dead, and I never asked any more questions about it.

Mr. German: We move to strike that on the same ground, Your Honor, that we object to any statement as a self-serving declaration.

The Court: Well, I have admitted these statements; the objection is noted and exceptions.

Q. You asked her where it was and she said it was dead?

A. Yes.

Q. Now, Mr. Anderson, did you know the Dick Atkins family? A. Yes, sir.

Q. Did you know a boy of Dick's named Thomas Atkins?

A. Yes, sir.

Q. Now, is the Thomas Atkins you have been talking about the child of Nancy's, the Dick Atkins Tommy?

A. No, sir, Dick Atkins' Tommy is a different child altogether.

Mr. German: They haven't been talking about a Tommy yet.

The Court: I appreciate that; merely talking about a child called Nancy's child.

Q. Do you know what Nancy's child was named?

A. No, I don't know; I never asked about the name, and never paid no attention to the name.

Q. Now, what was the color of this child that Nancy claimed?

A. Well, it was a kind of a mixed breed looking child.

Q. Well, you say mixed breed; what would you say?

A. Well, looked to me like it might be mixed a little with white, Indian and colored, all mixed up together, the way I had it from his looks.

Q. What was it, yellow?

A. Well kind of a brown yellow, or some kind of mixed breed color; can't hardly tell you the color of it.

Q. Well, what was the color of its hair?

A. Well, its hair would be called light; wasn't dark and wasn't light, but what we term as light hair.

Q. Well, what was the description of Dick Atkins' Tommy's? A. Well, he was dark skinned, curly headed.

Q. Kinky head, you mean? A. Yes.

Q. Well, he [] would *you* call a negro child? A. Yes.

Q. Now this child you described as Nancy's child was not the child known as Dick Atkins' Tommy?

A. Oh, no, different child altogether.

Q. How much older was Dick Atkins' child than this one of Nancy's?

A. Oh, I can't hardly tell you that; it must have been five or six years older.

Q. Did you know two boys around there, Charley and Harvey Harrison, said to have been Minnie Atkins' children?

A. Well, no, I didn't; might have seen them, but then I paid no attention to them.

Q. Do you remember a boy that Charley Bailey had?

A. I remember Charley having a boy there.

Q. Do you remember one that was at Jim Childers'?

A. Yes, I remember Jimmy having a boy out there; I don't know what their names were.

Q. Well, now was either one of those two boys the boy you saw with Nancy? A. No, sir.

Q. They were different boys?

A. Different boys altogether.

Cross Examination by Mr. German.

Q. You never saw this child you say was nursing Nancy after it was nursing, did you?

A. Yes, I seen it running around playing.

Q. How old? A. Oh, I can't hardly tell you exactly.

Q. How old was it the last time you ever saw it?

A. It must have been two or three years old.

Q. Had on dresses? A. Which?

Q. Had on dresses? A. Yes, had on dresses.

Q. Had on dresses and you don't know whether it was a boy or girl?

A. Well, no I can't say whether it was a boy or girl.

Q. No. Now if afterwards you saw a boy out there with Jim Childers, because it had on boys' clothes, of course you would say that is not the same boy, wouldn't you?

A. Well, it was a different complexion altogether, and different colored hair.

Q. Now describe that child that was with Jim Childers.

A. Well, little dark skinned, black headed.
Q. Dark skin and dark headed?
A. And I can't hardly describe him.
Q. What kind of blood was he?
A. Well, he was mixed blood, Indian and darkey.
Q. Indian and darkey? A. The way I pronounced him.
Q. Well, now that child Charley Bailey had what was he?
A. Well, he was mixed blood, too.
Q. He was Indian and darkey too?
A. Well, now from his looks, now, judging from his looks.
Q. Yes, you judged that from his looks.
A. Yes, of course I don't know that that was his blood.
Q. I thought you left Wagoner in 1892. A. I did.
Q. And went over to Coweta? A. Yes.
Q. Then didn't come back to Wagoner any more until 1903? A. Well, I didn't go there to stay.
Q. And you were over there a good deal?
A. I was in and out.
Q. The only Tommy Atkins you knew in or around Wagoner was this Dick Atkins' Tommy, wasn't it?
A. Well, only one I knew his name, and he wasn't in Wagoner.
Q. Well, he was there off and on; well you have seen him in Wagoner several times, haven't you?
A. I have seen him at his daddy's house; I don't remember that I saw Tommy in Wagoner, Tommy Atkins.
Q. Never did see Tommy Atkins in Wagoner, did you?
A. Yes, seen different Tommy Atkins in Wagoner.
Q. Tell us who they were.
A. An Indian fellow there at Coweta, seen him there in Wagoner.
Q. What was his name? A. Tommy Atkins.
Q. Who was his father? A. Billy Atkins.
Q. What other Tommy Atkins have you seen in Wagoner?
A. Cherokee fellow who lives over close to Tahlequah, he had a Tommy in Wagoner.
Q. What was that Tommy's father's name?
A. Sam Atkins.
Q. Sam Atkins; those negroes or Indians?
A. All Indian.
Q. And those were the only Tommy Atkins you have ever seen in Wagoner? A. That I remember, at that time.

(Witness dismissed.)

And thereupon M. J. PHILLIPI, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn, under oath testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name. A. M. J. Phillipi.
Q. How old are you, Mr. Phillipi? A. 54 years old.
Q. Where do you reside? A. Inola, Oklahoma.
Q. Did you ever reside in Wagoner? A. Yes, sir.
Q. What year did you go to Wagoner?
A. I went to Wagoner the first of October, 1892.
Q. What business were you in there?
A. Newspaper business.
Q. What was the paper you ran?
A. It was called the Wagoner Record.
Q. Where was your place of business located when you first went there?
A. Well, it was at the foot of Main Street, on the west side, at the crossing on the east side to the west side of town.
Q. How long were you located at that place with your paper? A. Well, let's see; sometime in 1894.
Q. From 1892 to 1894 you were down there?
A. Yes, sir.
Q. How near Davis and Jones' store was that?
A. Well, their store was across the railroad and my office was—the back end of a lot was against the M., K. & T. right-of-way and their store abutted the right-of-way on the west side.
Q. Yes, sir, right across the right-of-way? A. Yes, sir.
Q. Did you know Nancy Atkins?
A. Yes, sir, I knew a woman there by the name of Nancy Atkins.
Q. Do you know whether or not she had a child?
A. She had a child at that time, looked like it was three or four years old, to me.
Q. Now, how often did you see that child?
A. Well, I didn't see it very often. Really the first time I ever paid any attention to it was a woman, name of Manuels did my washing, a colored woman, and she came over and delivered my washing one day, and I had to go out to town to get the change for her, and while I was gone this Atkins woman and her kid came along, and they stopped and talked there with her until I got back, and the Manuel woman spoke to her and called her Nancy and asked her how the child was, and she said it was well.
Q. Now, how often did you see it after that?
A. Well, oh, I just would see it passing around town oc-

casionally and meet her occasionally on the streets; not very often.

Q. Now, how long did you continue to see it around there with her? A. Oh, for two or three years.

Q. Then after you said you had your office there until 1894? A. Yes, sir.

Q. Where was your office moved to then?

A. Moved on Cherokee Street, about half way between Main, I was on Main before, you know; about half way between Main and the court house on the north side of Cherokee Street.

Q. Now, after you moved up there did you see Nancy and the child any more?

A. Well, met them occasionally down town but hardly ever saw them up that way at all.

Q. You don't remember so much about them after you moved up there? A. No, sir.

Q. What kind of a looking child was this?

A. Well, it was rather dark and had rather light hair, it was a peculiar looking child, its hair was stringy, didn't look like it was ever combed very often.

Q. And what would you say about its blood, whether it was white, Indian or negro?

A. Well, it looked like it was Indian and negro, probably some white blood with it.

Q. About how large was the child the last time you saw it? A. Well, I judge four years, old, just a small child.

Q. And that was about '94?

A. Yes, probably 1894 or 1895.

Cross Examination by Mr. German.

Q. And you have been living in Wagoner ever since then?

A. Yes, sir, I left Wagoner in 1906.

Q. But you did live there from 1892 up to 1906?

A. Yes, sir.

Q. You saw a child there with Nancy when you first came there?

A. Well, probably the second year I went there in 1892.

Q. Your place was on the west side of the tracks?

A. No, it was on the east side of the tracks.

Q. Near the railroad tracks?

A. Near the railroad crossing. The main crossing between west and east was at my office, they turned the corner there.

Q. You had been there probably a year and it was then about three years old?

A. When I noticed it. I related to you the circumstances.

Q. The last time you saw it it was about four years old?
A. I judge four or five.
Q. Now, you don't know whose child that was, you have no knowledge about whose child that was of your own knowledge? A. No, I couldn't swear it was her child.
Q. There were lots of other children there in town, several other children there in town, weren't there?
A. Yes, sir.
Q. And you saw these other children around the streets, didn't you? A. Yes.
Q. Different people? A. Seen her.
Q. This was the only one you ever saw with her?
A. Well, I have seen her a time or two at Dick Birney's place of business on the west side.
Q. With Dick's children?
A. Yes, they were all there in the family.
Q. You don't know whose children those were?
A. Which children?
Q. Any of those children there in town of mixed blood?
A. I knew some of them.
Q. You knew who they were said to be? A. Yes, sir.
Q. You don't know who any of them were?
A. No, I couldn't swear to it.
Q. Do you know Harvey Harrison and Charlie Harrison?
A. No, I don't believe I do.
Q. Didn't you see some boys with Nancy there away back in the nineties? A. Two boys?
Q. Light colored boys?
A. I don't remember of seeing them.
Q. You don't recollect seeing them? A. No, sir.
Q. Instead of just one, didn't you see two?
A. Not at that time, no, sir.
Q. Well, did you ever at any time?
A. Well, I don't remember that I ever did.
Q. Don't remember that you ever did?
A. No, sir.
Q. Did that child have on dresses?
A. It did at that time, yes, sir.
Q. Had on dresses? A. Yes, sir.
Q. And you don't know whether it was a boy or girl?
A. Well, they called it Tommy, that is all I know.
Q. Who called it Tommy? A. This Indian woman.
Q. That is the first time you have spoken of that, isn't it, in your testimony here today? A. Yes, sir.
Q. Who have you talked to about this case lately?
A. Well, I haven't talked to anybody except Judge Maxey and Mr. White
Q. When did Mr. White first see you?

A. About this case?
Q. Yes? A. Last Tuesday.
Q. And you talked with him up at Wagoner? A. No, sir.
Q. Where do you live now? A. I live in Inola.
Q. You talked with him up there?
A. No, sir, I came down here with my wife, brought her down for medical treatment and she is here now; and I went to the Katy Depot and he was there, and he spoke to me about this case.
Q. You and he had a conversation about it? A. Yes, sir.
Q. And he arranged for you to come here and testify?
A. He asked me what I knew about the case and I told him.
Q. Your name is what? A. M. J. Phillipi.
Q. Is that the first time anybody ever talked to you about this matter at all? A. Yes, sir.
Q. First time?
A. First time anybody said anything to me about this case.
Q. And you left Wagoner fourteen years ago? A. No.
Q. When did you leave there? A. I left in 1906.
Q. You left there eleven years ago? A. Yes, sir.
Q. And you haven't seen this child since it was four years old? A. Four or five years old.

(Witness dismissed.)

Mr. Stuart: I would like to offer this marriage license of Henry Carter in 1904.

The Court: Well, it may be admitted now, and if there is a duplicate——

Mr. Stuart: I want to call Your Honor's attention to this marriage license of 1904, it gives Henry Carter's age as twenty-four years old in 1904. He married subsequently in 1908 and he gave his age as twenty-eight.

And thereupon, LIZZIE M. MILLER was called and sworn as a witness for and on behalf of the defendant, Nancy Atkins and testified as follows:

Direct Examination by Mr. Maxey.

Q. State your name? A. Lizzie M. Miller.
Q. How old are you? A. Fifty-two.
Q. Is your name Miller now? A. Yes, sir.
Q. It used to be Beck? A. Nee Beck.
Q. Where do you reside now? A. Okemah, Oklahoma.
Q. Did you ever reside in Wagoner? A. Yes, sir

Q. What years did you reside in Wagoner?

A. Well, about sixteen years I think, I moved there the latter part of 1900 or 1897 as well as I remember, in December, 1897, as well as I remember.

Q. And lived there about fifteen years, you say?

A. Fifteen or sixteen years, I have been away four years.

Q. Did you ever know Nancy Atkins? A. Yes, sir.

Q. Where did you know her? A. In Wagoner, Oklahoma.

Q. Did you know her before you met her there and after you went to Wagoner? A. No, sir.

Q. You got acquainted with her about 1897?

A. Well, might have been 1898, I didn't know Nancy in 1897, but it was the early part of 1898, as well as I remember.

Q. Where did you first meet her?

A. Well, she was staying with a family named Birney.

Q. Betsy Birney?

A. Betsy Birney and Dick Birney I believe was the name.

Q. Now, do you remember whether she had a child?

A. She had a child there that they claimed to be hers.

Mr. German: We object to that.

The Court: Yes, that will be stricken from the record.

Q. Did she ever tell you it was her child?

A. Well, she didn't exactly tell me that he was her child, but she called him Tommy and ordered him around and Betsy said——

Mr. Stuart: Well, we object to this, it is not responsive.

The Court: You needn't state what Betsy said.

A. Well, the child was known to be Nancy's child.

The Court: Never mind.

Q. Now, how long did you see that child around there, Mrs. Miller?

A. Well, he was there about—— I remember him being there as much as eight or nine months, maybe a year after I knew him. And they called him Tommy.

Q. Now, what relation, business relation had you with the Birney's?

A. Well, I bought a little house from Birney's and some lots, and after we bought them we decided that we wouldn't build on it, and we just rented them the little house.

Q. And did you go there frequently?

A. Yes, when she would get behind with the rent, I would take my laundry there and get her to do it to help with the rent.

Q. What were you doing there at that time?

A. We were running a rooming house there.

Q. What was it called? A. McAnally Rooming House.

Q. Now, how often did you go to Betsy's there?

A. Some months I would go maybe once or a couple of times, and then again maybe I would take my lanudry every week, it was a good deal to the amount of rent she paid in.

Q. Well, did you see Nancy around there?

A. Yes, she was there.

Q. Did you see this child around there?

A. Yes, sir, he was there.

Q. Do you know what became of the child?

A. Well, the child died.

Q. Were you there when it died?

A. No, I wasn't there just when the child died, but I went there the day that they had taken him to the funeral, that is the reason I know. I went to get my rent. And Betsy had told me before that she was paying in the money on this boy—

Mr. German: We object to that and move that it be stricken from the record.

The Court: It will be stricken.

Q. Do you know anything about the child being sick there?

A. Yes, sir, he was sick there.

Q. For how long before he died?

A. Well, I don't just remember that.

Q. You remember that from going to Betsy Birney's?

A. From going there, but I don't remember just how long he was sick.

Q. And you learned that he was dead?

A. Yes, sir, he died there.

Q. You were there you say the day they were burying him? A. Yes, I was there the day they had gone to bury him.

Q. What kind of a looking child was this, Mrs. Miller?

A. Well, he was what I call a kind of scrubby looking boy, but I couldn't say just how old he was by him being kind of scrawny; he was kind of between an Indian—looked kind of like an Indian and I thought kind of mulatto, but I guess it was Indian and white.

Q. About how would you think he was the last time you saw him?

A. Well, from his face and looks I judge seven and a half or eight year old, something about that age, he might have been older.

Q. Can you say what year it was that he died?

A. Well, let's see. It was in the spring of 1899 I believe that he died; I am pretty sure it was either 1898 or 1899 but I am pretty sure it was 1899 when he died.

Cross Examination by Mr. German.

Q. Why do you think he must have been white and Indian? A. Well, I have been raised here and I usually can tell.

Q. Yes, but you say he looked to you like he was part negro, why do you say he must have been something that he didn't look like to you? A. Didn't look like to me?

Q. You say he looked to be part negro and part Indian?

A. I knew he was Indian from his mother.

Q. You are assuming that Nancy was his mother? And you knew she was an Indian? A. Yes, sir.

Q. But the boy looked to you like he was part negro and part Indian? A. Yes, he did.

Q. Why did you say a while ago that he must have been part white and part Indian? A. I don't know.

Q. Has somebody been saying something to you?

A. No, I don't know anything about this case.

Q. You don't know why you said that?

A. No, but I said he looked kind of like a mulatto like.

Q. So that was a negro boy according to your idea?

A. No, I didn't say that, I couldn't say what the boy was, only I know he was Indian but I couldn't say what else he was.

Q. Well, you regarded him as a mulatto?

A. No, I don't know as he was mulatto.

Q. Well, was he a white boy? A. Well, not exactly.

Q. Well, he was nearly white?

A. Well, I wouldn't think he was. It has been so long and I paid so little attention I couldn't say. But I know he was Indian and I know it was Tommy Atkins.

Q. What do you know about the other children?

A. I don't know anything at all, only Charlie Bailey had one out there with him that they claimed was either his brother's or something.

Q. Charlie had a brother of this child?

A. Well, I saw some little Indian children out there when I would pass but I couldn't say whether they were his or not.

Q. You thought it was that boy's brother?

A. No, I never knew about that at all.

Q. Well, Nancy didn't have but two children there that you knew about?

A. Well, I don't remember any of them but Tommy. He used to come down with Betsy's boys to bring me in kindling.

Q. And you don't know anything about that child Charlie Bailey had?

A. Not a thing on earth only he had some little Indian children out there.

Q. Charlie lived in the country? A. Yes, sir.
Q. Tell the Court why you mentioned Charlie Bailey?
A. Well, they said that that was Nancy's boy, but I don't know it to be.
Q. Said that about them?
A. Yes, that is what they said in town. They just said that Charlie had those children.
Q. Those children of Nancy's?
A. Had one or two of them, I don't know.

Cross Examination by Mr. Stuart.

Q. What was the color of this child's hair you saw with Nancy, what was it?
A. Well, his hair, as well as I remember was kind of light.
Q. Was it a molasses color?
A. Yes, kind of molasses color, what I call molasses color.
Q. There is a black molasses, isn't there? A. Yes, sir.
Q. Well, it was a black molasses color? A. No, sir.
Q. Then, there is a light molasses color?
A. Well, it was kind of between the black and the light kind, like the yellow molasses.
Q. Then, you say he had a yellow molasses hair?
A. Yes, sir.
Q. Do you know what a chocolate yellow is? A. No, sir.
Q. Did you ever see any yellow chocolate? A. No, sir.
Q. Most chocolate you saw was brown? A. Yes, sir.
Q. The fact is, you know he wasn't chocolate yellow colored hair?
A. He wasn't the kind of chocolate I am thinking of. I am thinking of that dark.
Q. You never saw any yellow chocolate, did you?
A. No, sir.
Q. And you wouldn't know what a chocolate yellow was would you? A. No.
Q. You say he was betwixt black molasses and a very light molasses?
A. Well, kind of a sandy, we call them dishwater blonds.

(Witness dismissed.)

And thereupon, Court recessed until nine-thirty A. M., Saturday, June 2, 1917.

And thereafter, and at 9:30 o'clock A. M., June 2nd, 1917, court convened pursuant to adjournment, and further proceedings herein were had as follows:

Mr. Hill: I have a rebuttal witness that is anxious to get away.

Mr. Maxey: The sheriff of Wagoner County.

The Court: Alright.

And thereupon, J. W. RUBLE, a witness produced on behalf of the defendants Nancy Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Ruble, state your name, age, residence and occupation.

A. J. W. Ruble, 42 years old, sheriff of Wagoner County, Oklahoma.

Q. How long have you been sheriff of Wagoner County?

A. Since the first of January.

Q. How long have you lived at Wagoner?

A. A little better than twenty-one years.

Q. When did you move there? A. December, 1896.

Q. What business were you engaged in the few years that you were there? A. Drug business.

Q. With whom?

A. I was a drug clerk for the Wagoner Drug Company.

Q. Are you acquainted with Charlie Harrison, or Lee Harrison sometimes called? A. Yes, sir.

Q. How long have you been acquainted with him?

A. Well, most all his life.

Q. Where was he when you first knew him?

A. Living with Charlie Bailey at Wagoner.

Q. At Wagoner or near Wagoner? A. Near Wagoner.

Q. Are you acquainted with his brother Harvey Harrison? A. Slightly, yes, sir.

Q. How long have you known him?

A. Well, I have seen him four or five times in his life; I never knew him like I knew Lee.

Q. You know his appearance and you know him?

A. Yes, sir.

Q. Do you know Cheney Trent? A. Yes, sir.

Q. Do you know the members of her family?

A. Yes, sir.

Q. The Dick Atkins family? A. No, sir, I do not.

Q. She is the only one you know?

A. She is the only one I knew, yes, sir.

Q. How long have you known her?

A. About 18 or 20 years.

Q. Are you acquainted with Nancy Atkins?

A. Yes, sir, I have seen her.

Q. How long have you known Nancy Atkins?

A. Well, I knew Nancy Atkins in 1896 or '97.

Q. Not later than that?

A. Well, I don't think I have seen her since she left there in '97.

Q. Left Wagoner? A. Yes, sir.

Q. Do you know whether she left there in '97, or did you quit noticing her?

A. Well, I noticed her quit coming around the store; I don't know what became of her.

Q. As far as you know you didn't notice her beyond '97 or something like that? A. No, sir.

Q. Were you acquainted with the boy who was with her during the time you knew her in Wagoner? A. Yes, sir.

Q. State what you know about it.

A. Well, it was just a chap about five or six years old, going around with her and supposed to be Nancy Atkins' boy.

Mr. German: We object to the supposition.

The Court: That will not be considered what was supposed; it is stricken from the record.

Q. State about it going around with her; how often would you see them together, and what relation did they seem to occupy to each other?

Mr. German: Let him state the fact; I object to the conclusion.

The Court: I assume that he will state what he saw.

Q. Well, this child would come with Nancy Atkins to the store, I can't say how many times but a number of times; I would say from one to seven months—some where in that neighborhood; I don't know how many months. I would see them every two or three days together.

Q. Did you see the boy at times when he was not with her and get acquainted with him and know him? A. Yes, sir.

Q. I wish you would describe that boy to the court?

A. He was a boy five or six years old I judge. The best I remember now he was a sandy haired boy and freckle face, few freckles, very dirty child playing with the negro boys around in front of our store.

Q. Do you know his name?

A. No, sir, never heard his name.

Q. Now, do you know the general reputation in that community as to who his mother was? A. Yes, sir.

Mr. Hill: I make the same offer.

The Court: Same offer may be made as indicated in similar instances as to other witnesses.

Mr. Hill: Don't answer this question. I want to prove by this witness that for a period of approximately a year he knew this woman and child at Wagoner, and it was generally understood in that neighborhood that this boy whom he has described was her son.

The Court: Same record in regard to it.

Mr. Hill: That is refused? And exception.

Q. Mr. Roble, state whether this boy that you have described and seen associated with Nancy was either Charlie or Harvey Harrison? A. No, sir, it was not.

Q. Was he such a boy that could have been a brother of this Trent woman, Chaney Trent?

Mr. German: We object to that.

The Court: That will be a conclusion so far as this witness is concerned, I take it.

Mr. Hill: I believe he would be entitled to draw a conclusion, but I will put the question a little differently.

Q. How did his appearance compare with that of this Trent woman, particularly, I call your attention as to the blood or race?

A. Well, the Trent woman was a negro and he looked more like an Irishman.

Mr. German: Are you referring to the Trent woman?

A. That is what he said.

Mr. Hill: She testified, Your Honor will recall, that she was a half sister of this Thomas Atkins and described him as a little lighter than herself. He don't know any of the family except this one woman.

Q. What did this boy of Nancy, what blood did he appear? A. He looked like he was Caucasian blood.

Q. What else? A. Indian.

Q. Did you see any other indication of any other blood than Caucasian and Indian? A. No, sir.

Cross Examination by Mr. Allen.

Q. You went to Wagoner, I believe you say, Mr. Roble, in 1895 or 1896? A. Ninety-six.

Q. You never saw or heard of Nancy Atkins before that

time, you never knew any of the members of the family, Minnie, Nancy, or any of the Atkins family? A. No.

Q. Where did you go from to Wagoner, where did you come from to Wagoner? A. Harrison, Arkansas.

Q. And you say Nancy passed out of your mind after 1906 or during the year 1907? A. 1907.

Q. You have no recollection of ever seeing her after that time? A. 1897.

Q. So, there was only how long that you knew her?

A. Well, I judge it was not more than a year, and I think less than a year.

Q. During that time she was in your store you say something like once a month?

A. Oh, more than that, I think every two or three days I believe I said.

Q. But there wouldn't be a child with her every time you would see her? A. No.

Q. You saw this child a number of times? A. Yes, sir.

Q. And you have no idea, no definite idea now as to just how he looked? A. Just how he looked?

Q. Yes? A. Oh, yes.

Q. Did you ever see this child after Nancy left?

A. No, sir.

Q. When did you get acquainted with Harvey and Charlie Harrison?

A. I got acquainted with Charlie Harris, that is we called him Lee Harris, well I think I saw him in 1898 and 1899 and I have known him ever since; and Harvey Harris I have never seen but three or four times in my life.

Q. That is in recent years? A. Yes, sir.

Q. And if you saw him during that time you don't remember? A. Harvey?

Q. Yes? A. No.

(Witness dismissed.)

And thereupon, SID JOHNSON, a witness produced on behalf of the defendants Nancy Atkins et al., being first duly sworn testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Johnson state your name, age and residence, and occupation. A. Sid Johnson.

Q. Age, residence and occupation?

A. Age 45; occupation is Special Agent for the M., O. & G., a railroad here.

Q. Your residence?

A. Residence is Fort Smith, Arkansas.

Q. What positions have you occupied, Mr. Johnson?

A. Well, I was deputy United States Marshal for Judge Parker's court in the early days.

Q. Speak out loud.

A. I was deputy United States Marshal for Judge Parker's court, the Fort Smith court in the early days; and I was Chief of Police at Fort Smith, Captain of Police and Patrolman.

Q. You have been a peace officer practically all your life?

A. Yes, sir, for twenty-five years.

Q. Did you at any time run as a special officer on a Katy train in then the Indian Territory? A. Yes, sir.

Q. At what time? A. That was in November, 1894.

Q. Can you recall the date and the occasion that—you got anything to fix it specifically in your mind as that time?

A. Yes, sir.

Q. What is it?

A. Well, at that time I was living at Vinita, and I was guard on a train for the American Express Company; we go on at Vinita, somewheres about 5 o'clock every evening and went to Checotah, there we met the northbound train number 2, and we always were in a hurry to get off there and catch that train to keep from delaying it.

Q. Well, was that the time of the train robberies here that you run as a guard for the Express Companies?

A. Yes, sir.

Q. Mr. Johnson were you acquainted with Lee Atkins?

A. Yes, sir.

Q. Where did you know him?

A. I knew Lee here and I knew him at Checotah, and knew him for quite a while.

Q. Do you know what business he was engaged in at Muskogee? A. Pool hall.

Q. Had you ever been in it? A. Yes.

Q. Did you know his sister Minnie Atkins? A. Yes.

Q. Did you see her at Muskogee, along about the time that you are referring to now, in '94 and '95?

A. Yes, sir, that time when I seen her.

Q. Did you know of the death of Lee Atkins?

A. Yes, sir.

Q. When did it occur, state the circumstances that fixed it in your mind.

A. Well, I worked this month, the month of November, for the American Express Company——

Mr. Maxey: November of what year?

A. 1894; and as I was telling you, as I got off of this train I was running on up to catch the other train and some one at Checotah told me that Lee Atkins was killed—shot.

Q. Told you who killed him, or anything? A. Yes, sir.

Q. Who was it? A. Amos McIntosh.

Mr. German: I don't know the object of this proof; let me ask counsel a question?

The Court: The effect of this evidence is that Lee Atkins was killed in November, 1894.

Mr. Hill: It just merely fixes the sequence of events. You remember that Minnie testified that she came here in response to a letter from Lee Atkins and that she stayed here so long after his death. Not especially important other than it fixes the sequence of events.

The Court: Now, this man's testimony is that he heard in 1894, someone told him that Lee Atkins had been shot.

Mr. Hill: By Amos McIntosh.

Q. Just one other question, Mr. Johnson: Did you ever see Lee Atkins in life after that time? A. No, sir.

Q. And you were well acquainted with him before that time? A. Yes, sir.

Mr. Hill: I don't know what Your Honor ruled as to the general understanding——

The Court: The death is admitted. Here is a circumstance this man relates establishing the date of the death.

Cross Examination by Mr. Stuart.

Q. You say Minnie was here at that time? A. Yes, sir.

Q. '94 and '95? A. Yes, sir.

Q. And you don't know whether she attended on her brother when he was sick or not? A. No, sir.

(Witness dismissed.)

Mr. Hill: Now Your Honor, in this connection we introduce testimony of Mr. Turner that he was uncertain about the date, and we want to prove definitely the date of John Davis' death. We are having some investigation made to see if we can get more definite on that and we would like to reserve our testimony on that until next week

The Court: Alright; that is the date of Davis' death?

Mr. Hill: John Davis' death.

The Court: Mr. Turner testified it occurred here in the city sometime?

Mr. Hill: Yes, sir, occurred right here in town; he was murdered here in the outskirts of Muskogee. I think we can get it definitely if you will give us a little time.

The Court: Alright.

And thereupon, T. W. BELL was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. You have been sworn as a witness in this case?
A. Yes, sir.
Q. What is your name? A. T. W. Bell.
Q. Residence? A. Leavenworth, Kansas.
Q. Do you know what year Rube Smith started the grocery business in Leavenworth? A. The spring of 1897.
Q. Did you have anything to do with financing him when he started into the grocery business? A. No, sir.
Q. Did you have any connection with his entry into that business?
A. I helped him purchase his bill of groceries, figured it up for him.
Q. You are acquainted with Mrs. Mattie Cobb, who testified as a witness on behalf of the defendant Page and others at Leavenworth on February 23, 1916? A. Yes, sir.
Q. Before Giles Penick, the Examiner? A. Yes, sir.
Q. Did you have a conversation with her at your office on or about February 16, 1916?
A. Yes, sir, sometime in February, I wouldn't give the date, that year.
Q. State whether or not in that conversation she stated to you in substance that the child she saw at Granny Letchers she dressed, that he had a scar on his back and that Mr. Page had told her that if she wouldn't tell that he, Page, would make her comfortable for life?

Mr. Stuart: She did what, told him that?

Mr. Allen: Yes, sir.

Mr. Stuart: I don't know whether they laid that impeaching question or not.

The Court: I was assuming that that appeared in the deposition.

Q. Did she, at that time, in your office in the City of Leavenworth, say to you in substance that she would be willing to testify for you and testify to the scar on the boy's back provided you would make a substantial financial arrangement with her? A. She did.

Q. Did she, at that time and place, say to you, in your office, say to you that she had told Lee Bond in his office about the scar, and that Mr. Bond threw up his hands and said: "My God, I thought you were my friend"? A. She did.

Q. Did she say to you at that time that Mr. Page had gone over her testimony with her and that he told her that he wanted her to testify to the birth of this child at Granny Letcher's and to nothing else, and that he would make her comfortable for life? A. She did.

Q. Did she say to you at that time and place, in substance, that Mr. Long had told her that if she would testify right he would pay her for it? A. Yes, sir.

Q. Did you subsequently have a conversation with her in the Federal Hotel in Kansas City? A. I did.

Q. How long was that after the conversation at your office? A. About two or three days after.

Q. And how long before she testified at Leavenworth?

A. Must have been thirty or sixty days.

Q. Were we taking depositions at that time in Kansas City? A. Yes, sir.

Q. To be used in this case? A. Yes, sir.

Q. Did she at that time and place say to you in substance the same things that she had said to you in the office at Leavenworth? A. She did.

Q. Did she further, at the Federal Hotel in Kansas City at the time mentioned, say that she would be willing to testify for you but before doing so she wanted to see the big man with the money? A. Yes, sir.

Q. Referring to Mr. Blakeney? A. Yes, sir.

Q. Did you at that time say to her that the man with the money was a big black man and not a big white man, but you were not paying anything for testimony? A. I did.

Q. Did she at that time and place, in Kansas City, say to you in substance that the trouble with your side of the case is that you haven't got any money on your side of it?

A. She did.

Q. Who was present at this conversation when you had this conversation at your office in Leavenworth?

A. Mr. Morton, my stenographer, and her daughter.

Q. Mrs. Cobb's daughter? A. Mrs. Cobb's daughter.

Q. Who was present when you had this conversation with her at the Federal Hotel in Kansas City?

A. Her daughter was present.

Q. Was Mr. Morton there?

A. Mr. Morton was there, but I think he had stepped out of the room; he was there part of the time, I won't say he was there all of the time. He had brought them to Kansas City by my request, I expected to take their depositions there.

Q. Did you know Granny Letcher in Leavenworth?

A. I did.

Q. What was her color?

A. About the color of Dennis Jones.

Q. What is that color?

A. We call him a colored man, we don't call him a black man.

Q. Full blooded colored man?

A. No, I don't say that, Mr. Allen, there is very few full blooded colored men.

Q. Was she black? A. We called her black, yes, sir.

The Court: The deposition of this Cobb woman I assume has been offered in evidence on behalf of the Page interests?

Mr. Stuart: Yes, sir.

The Court: I would suggest, Judge, that you defer cross examination of this witness until you have been supplied by the stenographer with today's transcript and then you can examine the record in connection with that?

Mr. Stuart: Well, I think I can examine him now, Your Honor; I got the substance of it.

Cross Examination by Mr. Stuart.

Q. Now, you say this testimony, this impeaching question was asked her at Leavenworth last year? A. Yes, sir.

Q. And you were there that time representing who, as a lawyer? A. I was representing the Tommy Atkins interests.

Q. The Tommy Atkins interests? A. Yes, sir.

Q. But you were representing this Henry Carter horn of Tommy? A. Yes, sir, which every way you care to put that.

Q. And your claim is that when the child was born it had a spot on its back, is that right?

A. Not always, it was after I had heard so by——

Q. Alright, but your claim after you had made up your mind about the truth of your case was that the child that was born to Minnie Atkins at Granny Letcher's house had a spot on his back? A. Yes, sir.

Q. And you went out to find out if it was true about that spot, didn't you? A. No, she came to my office, Judge.

Q. How come she to come to your office?

A. I heard of her——

Q. Well, you sent for her, didn't you? A. I did.

Q. You sent for her to come up into your office?

A. Yes, sir.

Q. And there had this conversation with her? A. Yes, sir.

Q. And she told you that the baby was born there, had a spot on his back? A. She did.

Q. And that the reason she couldn't testify for you was that the other people put up more money? A. She did.

Q. And that if you would put as much money as they did, that she would testify for you? A. Certainly, yes, sir.

Q. That is what she said? A. Yes, sir.

Q. Alright. And she said when she went into Lee Bond's office and spoke about the scar, that Lee threw up his hands?

A. Yes, sir, she did.

Q. Now, Lee Bond was practicing law in Leavenworth at that time, wasn't he? A. Yes, sir.

Q. And you had known him all his life? A. Yes, sir.

Q. Did you ask Lee Bond about that? A. No, sir.

Q. Did you go to him and ask if this woman made that statement to him?

A. I never said nothing to Lee Bond until at the Federal Building when we were taking the depositions there in May or June.

Q. What did you tell Lee Bond in the Federal Building?

A. When she testified there, I said, Lee, that old lady came to my office and gave me a great big story which I believed but she has gone back on it now, and gone back to you, or something like that.

Q. But you didn't tell Lee that she told you that this child had a scar on his back? A. I don't know that I did.

Q. You never intimated it to him?

A. I don't know that I said that.

Q. Now, when she was examined up there, you were present in court? A. I was.

Q. And those questions were put there and you heard her deny it? A. Yes, sir.

Q. You didn't then take the stand, did you?

A. I didn't but I was surprised.

Q. You were surprised—why didn't you take the stand then and impeach her? A. I wasn't called on to take the stand.

Q. She was swearing against your client wasn't she?

A. Yes, but——

Q. Answer my question. She was swearing against your client? A. Yes, sir.

Q. You knew that she swore a lie against your client?
A. Yes, sir.
Q. You knew that she told a different story? A. Yes, sir.
Q. Why didn't you take the stand and impeach her?
A. We cross examined for that purpose of impeaching her.
Q. I know, but why didn't you take the stand?
A. Because I expected to be here.
Q. Alright; you kept it to yourself? A. Yes, sir.
Q. Did you cross examine her there?
A. I don't know whether I did or Mr. Blakeney.
Q. The questions about this detail were asked by Mr. Allen, weren't they?
A. We asked them also; you will find them in the record.
Q. Now, was that the first time you had seen the Cobb woman?
A. The first time I had seen the Cobb woman was in my office.
Q. How much did she say the Page people offered her to take her testimony back?
A. She just said Mr. Page would make her comfortable for life.
Q. Did she say Mr. Long said anything about it?
A. She said Mr. Long told her they would take care of her and she would never want, or something like that.
Q. Alright; now, did she say any other people connected with the Page interest promised to take care of her?
A. I don't know that he mentioned anybody else's name so far as the money consideration was concerned.
Q. Now, how long was this before the trial that she told you this—before she gave her evidence?
A. It was in Leavenworth in February; I think we had taken the depositions in either May or June at Leavenworth—that she gave her deposition I am not sure—one of those months. We were there off and on them three months and when she told me this story in Leavenworth, we were taking depositions then at Kansas City. I immediately took she and her daughter over to Kansas City for the purpose of putting them on the stand. They stopped at the Federal Hotel, and I talked with them, and when she told me this story and demanded money, and demanded five hundred dollars from me, I told her I didn't have the money to give her but paid her expenses down there which was all I could do.
Q. Do you know Mr. McMillian here, this gentleman over here? A. I do, sir.
Q. You know he was the first man that ever talked to the Cobb woman in this case? A. No, sir, I don't.
Q. You don't know that? A. No, sir.

Q. She swore that on the stand up there, the first man she saw was Mr. McMillian? A. I don't recollect it now.

Mr. Allen: I object to that testimony, because I don't think that is the testimony; I think she said the first person she talked to was Mr. Crilly.

The Court: He is asked if Mr. McMillian is the first man that talked to the Cobb woman, now if he knows he may state. If he doesn't he will not answer. As to what the testimony is, I will get that from the record.

Mr. Allen: He answered that and then Judge Stuart said, don't you know she testified.

The Court: I will get that from the record.

Q. I didn't get it just how long before the hearing at Leavenworth she told you this?

A. Judge, we were taking depositions from February clear up to June, in Kansas City and Leavenworth. We were in Kansas City in February I know; we was in Leavenworth in both the months of May and June.

Q. Then, she told you this in February?

A. It was February I saw her in Kansas City.

Q. I thought you said she came to your office in Leavenworth?

A. Well, I had her in Kansas City—— She came to my office in Leavenworth; two days afterwards I had Mr. Martin bring her to Kansas City.

Q. What Mr. Martin? A. Mr. R. E. Martin.

Q. Who is R. E. Martin?

A. He is a gentleman in Leavenworth.

Q. Fix that date when Mr. Martin brought her?

A. Well, the date he brought her to Leavenworth when we were taking depositions.

Q. No, you say Kansas City?

A. Somewhere between the 10th and 20th, maybe the 15th or 16th; I can look at my records.

The Court: What month?

A. Of February.

Q. You had her over in Leavenworth on what date?

A. About two days before that.

Q. And then Mr. Martin brought her over to Kansas City between the 10th and 20th of February?

A. Yes, sir, I went to Kansas City the next day, and the next day I telephoned to Mr. Martin to bring her down there, we would take her deposition.

Q. And she was in Kansas City while you were taking depositions? A. Yes, sir.

Q. And then you had another talk with her in Kansas City?
A. I went to the hotel.
Q. One at the office and the other at Kansas City?
A. Yes, sir.
Q. Then, after that the depositions were taken in Leavenworth? A. Yes, sir.
Q. Did you intend to call her yourself?
A. Not after she told me she wouldn't testify unless I gave her five hundred dollars.
Q. After that you didn't intend to call her?
A. Yes, sir, she told me she wouldn't testify.
Q. When she did testify in Leavenworth you went to Lee Bond and told him you were surprised at her testimony?
A. I told Lee Bond I see you have the old woman. She told me you folks wanted her to testify to what wasn't true. I will say to you, Judge, that Mrs. Cobb——
Q. Never mind. I don't want your explanations, you can give them to your counsel. As a matter of fact, didn't you say a minute ago that you told Lee Bond at Kansas City when she testified that you were surprised at her testimony?
A. No, sir, I said at Leavenworth at the Federal Building.
Q. She told you at Leavenworth she wanted to testify?
A. She told me in Kansas City in the Federal Hotel.
Q. What did she tell you at Leavenworth she wanted?
A. She told me at Leavenworth she would testify for us because she wanted to tell the truth and the Page interests wanted her to testify up to the time that Tommy left and leave off the balance and leave off the scar.
Q. She told you in Leavenworth that she would testify for you? A. Yes, sir.
Q. Then, you took her to Kansas City? A. Yes, sir.
Q. When you got to Kansas City she refused to testify for you? A. Made a demand for money.
Q. And refused to testify? A. Yes, sir.
Q. Because she didn't get it? A. Yes, sir.
Q. And then she went back to Leavenworth and testified?
A. And testified for you.

The Court: Are you through with the cross examination?

Mr. Stuart: One question.

Q. Mr. Bell, what was the first place you saw this woman in Kansas City? A. Mrs. Cobb?
Q. Yes. A. At the Federal Hotel.
Q. Federal Hotel? A. Yes, sir.
Q. Now, who was with her at the Federal Hotel—what woman? A. Her daughter, Mrs. Tittle.

Q. Mrs. Tittle was at the Federal Hotel? A. Yes, sir.
Q. Now, who went up there with you? A. Not any one.
Q. Were you by yourself?
A. I was by myself when I went up there.
Q. Did anyone come there while you were there?
A. No, sir.
Q. Was anyone in the hotel while you were there that was associated with you? A. Yes, sir.
Q. Who was it? A. Robert Martin.
Q. Robert Martin? A. Yes, sir.
Q. Now, Robert was on the outside, was he, of the room?
A. They had two rooms there and they came over to the Federal Building where we were taking depositions and told me where the rooms where they were stopping at the hotel, and when we adjourned at noon, why I went over there.
Q. Did you have any difficulty about getting in?
A. No, sir.
Q. Not a bit? A. No, sir.
Q. Was Mrs. Tittle present when you had that conversation with Mrs. Cobb?
A. Mrs. Tittle, I think, sat in the other room and talked to Robert Martin.
Q. Mrs. Tittle wasn't in there at all?
A. She wasn't in the room.
Q. Robert Martin was talking to Mrs. Tittle in the other room? A. Yes, sir.
Q. Now, that was all who went with you to the Federal building (hotel)? A. Yes, sir.

Cross Examination by Mr. Allen.

Q. You say she told you upon that occasion that she wanted to see Mr. Blakeney? A. She did.
Q. Did you convey that information to Mr. Blakeney?
A. When we convened at 2 o'clock I had Mr. Blakeney to go over there.
Q. And he went over and saw her and talked to her?
A. Yes, sir.
Q. You say that——

Mr. Allen: If Your Honor please, I don't understand just what counsel for the defense is getting at in Judge's cross examination of this witness upon the fact of the conversation——

The Court: Simply bringing out the details.

Mr. Allen: In view of the fact that Your Honor has not read the deposition, she stated * * *

The Court: I understand that you laid that predicate; she denied having this particular conversation. I will not go into what her testimony showed, because I will get that from the record.

Q. Now, this conversation in Kansas City in the Federal Hotel, was after you had the conversation with her in your office? A. Yes, sir.

Q. Had you formerly represented any of the members of Mrs. Cobb's family? A. I had.

Q. Who?

A. Her brother, and you might say the whole of her brother's family.

Q. In criminal cases? A. Criminal cases.

Mr. Stuart: Your Honor——

The Court: I will not consider that; what her brother and his family had done casts no reflection on her testimony.

Mr. Allen: None on earth. I did not intend it to, except to show his acquaintanceship.

The Court: All right, I will appreciate that part of it.

Q. Had you during that service talked in connection with Mrs. Cobb?

A. Mrs. Cobb was in my office several years ago when her nephew was being tried for burglary.

The Court: Well, now, don't go into those details. Now, you knew Mrs. Cobb before this occurrence?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. Bob Martin got on the car between Leavenworth and Kansas City after Mrs. Cobb got on the car?

A. I don't know.

(Witness dismissed.)

And thereupon, W. T. HUTCHINGS was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. Your name is W. T. Hutchings? A. Yes, sir.

Q. You are an attorney here in Muskogee? A. Yes, sir.

Q. Major, I wish you would refresh the Court's memory as to what day of the week April 20th came on in the year 1885? A. Monday.

Q. I wish you would refresh the Court's memory as to what day of the week April 20th came on in the year 1884?

A. Sunday.

Q. What day of the week did it come on in the year 1896?

A. Tuesday.

Mr. German: That is all.

The Court: Any cross examination.

Mr. Stuart: Can't cross *examination* about dates when he is looking at the almanac. I guess you have correctly stated it, Colonel?

A. Yes, sir.

(Witness dismissed.)

And thereupon, R. E. MARTIN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. R. E. Martin.

Q. Your age and residence?

A. Seventy-four the 8th day of this month.

Q. Where do you live, Mr. Martin?

A. I am working out of Kansas City, Leavenworth is my home.

Q. Are you one of the lessees or interested in the lease from Henry Carter?

A. I am interested in the lease, yes, sir.

Q. T. W. Bell is also interested in that lease? A. Yes, sir.

Q. Who represented you in 1916 during the time the depositions were being taken before Mr. Giles A. Penick at Kansas City and Leavenworth in addition to Mr. Bell?

A. The attorneys interested in the Henry Carter case.

Q. Who?

A. The attorneys interested in the Henry Carter case.

Q. Who are they?

A. Mr. Blakeney was there at that time and Mr. Johnson and Mr. Bell.

Q. Mr. Blakeney of Muskogee? A. Yes, sir.

Q. Were you present in the office of T. W. Bell in the City of Leavenworth a short time before Mrs. Mattie Cobb testified at Leavenworth at which time she had a conversation with yourself and Mr. Bell and others? A. Yes, sir.

Q. Did she say, at that time and place, in substance, that Mr. Page had stated to her that if she would testify to the birth of Thomas Atkins at the home of Granny Letcher, and nothing more, he would make her comfortable for life?

A. She said that Mr. Page over there——

Mr. Stuart: Let him answer that yes or no.

The Court: Did she say that?

A. Yes, sir, she made that statement.

Q. Did she say anything in that conversation—— Well, I will ask this question: Did she say in that conversation in substance that Mr. Long had told her that if she would testify that she would be well paid for it?

A. I don't remember her making that statement.

Q. You don't remember that. Did she say at that time in substance that Mr. Page had further stated to her that he didn't want her to remember anything about a scar on the back of this boy, and that if she would remember right he would take care of her the balance of her life?

A. I don't know, I didn't hear all of that conversation; I was in and out of the hall, I was in there part of the time while she was doing this talking.

Q. Were you present at the time she had a conversation in the Federal Hotel in Kansas City?

A. I was at the Federal Hotel, yes, sir.

Q. Did you hear her make a statement of that kind in substance, that Mr. Page had said that if she would remember right about this boy that he would take care of her for life?

A. They talked to her in an opposite room from where I was at.

Q. You didn't hear that? A. No, sir.

Q. Were you present when she had a conversation about seeing the big white man, did you hear any conversation?

A. Yes, she wanted to see the big white man.

Q. Did she say in your presence that she wanted to see the big white man with the money?

A. She wanted to see the big white man that was interested in the case.

Q. That was in the Federal Hotel in Kansas City?

A. Yes, sir.

Q. Did she say at either of those times or places, say in your presence, that she would be willing to testify for you but before doing so you would have to make a substantial financial arrangement with her, or that in substance?

A. She was looking after the money end of it.

The Court: Well, now, I don't want your conclusion. You are asked whether she made a certain statement of a certain kind in substance, did she or not?

Q. Did she say that? A. Yes, sir.

Cross Examination by Mr. Bond.

Q. Now, what did she say in Bell's office?

A. That was in the Federal Building.

Q. What was said in Bell's office—that was several days before? A. The day before if I remember right.

Q. She was up in Bell's office because you went out with a hack and brought her up there? A. Yes, sir.

Q. And in Bell's office she said Mr. Page had seen her and told her he was going to make her comfortable for life?

A. Well, she told me what they wanted to do, that is she told Mr. Bell in my presence.

Q. And at the same time she told you that if you would make a substantial money proposition to her she might change her testimony? A. She said that in the Federal Hotel.

Q. Did you just now say she said that in Bell's office too?

A. She said in the Federal Hotel in Kansas City.

Q. I am asking you what she said in Bell's office now. Didn't you just now testify that in Bell's office she told you and Bell that if you would make a substantial money consideration to her she would change her testimony?

A. She was talking to Bell.

Q. Well, she told that to Bell in his office, didn't you just now say that, Mr. Martin? A. I don't think I did.

Q. Well, now, what is your recollection whether she did or not in Bell's office?

A. She said it in the Federal Hotel in Kansas City.

Q. We are not there yet, we are in Bell's office in Leavenworth. I want to know whether you heard her say in Bell's office to him in substance or fact, that if they would make a substantial money consideration to her she would change her testimony; didn't you stand there and hear her say that to Bell?

A. I wasn't present at all of the conversation.

Q. Well, when you were present, did you hear her say that in Bell's office? A. I don't believe I did.

Q. But you did hear her say in Bell's office that Mr. Page had promised her to take care of her if she would testify the way he wanted her to?

A. If she stayed with him he would make her comfortable for life.

Q. How did you happen to be at the Federal Hotel in Kansas City when she was?

A. Mrs. Edwards' daughter called me and said they were leaving Leavenworth on a certain car to meet Mrs. Edwards' sister, and asked me to catch that car at Fourth and Spruce, about two blocks and a half from my place; I live at 708.

Q. And you got on the car out there and then took them up to the Federal Building in Kansas City?

A. Yes, or they taken me.

Q. What is this lease you are interested in?

A. Henry Carter lease and a contract covering the Henry Carter lease.

Q. To whom?

A. The lease, if I remember right, is made to Coody Johnson and J. C. Stroud.

Q. Is your name in it?

A. Not in the least, no, sir.

Q. You then have been getting evidence in this case on your own behalf?

A. I was employed by Coody Johnson as a detective to ferret out this evidence, yes, sir.

Q. Did you hear her say up there in Bell's office that she had told Lee Bond in his office that the boy had a scar on his back and he threw up his hands and said "My God, I thought you were my friend"?

A. I didn't hear all the conversation at Bell's office.

Q. You were out in the hall when that was being said?

A. Part of the time, yes, sir.

Q. And if such a remark as that was made you were not there then?

A. I wasn't in Bell's office all the time.

The Court: What is your business, Mr. Martin?

A. Conductor on the Interurban between Kansas City and St. Joe.

Q. After your talk in Kansas City, you went over to Platte City to see her again?

A. I went over with Mrs. Tittle for some letters that Mr. Long and Mr. Page had written to Mrs. Edwards.

Q. And you talked with her then, didn't you?

A. Not much. She didn't have much to say to me.

Q. You never made the money proposition to her?

A. No, sir.

Q. That you say she mentioned?

A. No, sir, had none to offer.

Cross Examination by Mr. Cobb.

Q. In that conversation in Bell's office, did Mattie Cobb mention anything about the scar on the boy's back?

A. Yes, she said she could testify to the scar, seeing it.

Cross Examination by Mr. Stuart.

Q. How long had you been seeking Mrs. Cobb to get this scar testimony, how long had you been after her?

A. It hadn't been long. George Crilly told me about this.

Q. How long? A. I couldn't say just how long.

Q. How many conversations had you had with her before she told you about the scar?

A. Well, the first one I ever had with her.

Q. Well, where was that?

A. The first conversation I had with her was out at Mrs. Tittle's house.

Q. Who was present when that conversation was up?

A. There was nobody but Mrs. Cobb and I, Mrs. Tittle was in the other room.

Q. Mrs. Tittle didn't come in at all while the conversation was going on?

A. Well, she was in and out too, but she didn't hear the conversation.

Q. You are sure of that? A. I am sure of that.

(Witness dismissed.)

And thereupon, BENJAMIN B. BLAKENEY was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Benjamin B. Blakeney.

Q. You are an attorney practicing law at Muskogee, you are located I mean at Muskogee? A. Have been.

Q. You are now located at Tulsa? A. Tulsa.

Q. Mr. Blakeney, you have been one of the attorneys for the Henry Carter interest in this Atkins case, have you not?

A. Yes, sir.

Q. Do you know a white woman by the name of Mrs. Mattie Cobb? A. Yes, sir.

Q. In the early part of 1916, did you have a conversation with her anywhere? A. Yes, I can't just say the time.

Q. It was while depositions were being taken in this case?

A. Taking of depositions in Kansas City, whether it was February or March, or the little trip we made in May—— It was just a few days before she testified; I can fix it that way.

Q. The record shows, Mr. Blakeney, if I am not mistaken, that she testified February 23rd at Leavenworth, so it was before that?

A. I would say that it was during the month of February prior to that time; it was just a few days unless we took a recess. I think we left Kansas City after I talked to her.

Q. Where was it you held the conversation with her?

A. At the Federal Hotel.

Q. In Kansas City?

A. Kansas City, Room 505 is my recollection.

Q. State whether or not in that conversation she stated this or this in substance: That she knew about this boy, referring to Thomas Atkins, that she had dressed him when he was a little baby, that he had a birthmark on his back, and that he was afterwards taken to the country by Henry Carter.

A. Yes. Of course she didn't say it in that connected order. I had a long conversation with her.

Q. In what way did she say it?

A. Well, Mrs. Cobb is very deaf as you remember.

Q. Yes.

A. I can't—— I found one night at my room a telephone notice that I had been called from that place.

Q. Your room was at the Muehlebach?

A. My room was at the Muehlebach. I think it was the same night Judge Allen and I went out in town one night, I think on my return I found it. The next morning I called up the number and the room and there was nobody in there and I asked them—— I didn't know it was a hotel, they just told me the number. I asked the party who it was that called me and they said it was two ladies. And so as I went down to the Court Building, Bell I think stopped me.

Q. That was the next morning?

A. The next morning Bell stopped me and told me—— Well, advised me that the parties were there and I went up.

Q. Into the Federal Hotel?

A. I went up to the Federal Hotel and when I went up they were eating breakfast and I waited around a while; and as soon as they came out—and Mr. Martin came in the meantime and Mr. Martin and I went up with them to their rooms, they had large double rooms up in the hotel. And I went very fully into the matter with the daughter, Mrs. Tittle, with whom I could talk without difficulty.

Q. Because she could hear well?

A. Because she could hear well, and I discussed the matter very fully and the daughter suggested that I talk to her mother. Then, I talked to her mother and the conversation with Mrs. Edwards.

Q. That is Mrs. Cobb? A. Mrs. Cobb, yes.

Q. Mrs. Cobb you understand was Mrs. Edwards?

A. Yes, I always called her Mrs. Edwards until she got on the stand. I talked to her and I talked to her substantially by just telling her what I had learned from her daughter that she knew. And she would affirm it. I would say now your daughter says you remember so and so and she would say yes.

That was substantially the way the conversation was conducted. She told me some things more than had been inquired about. She told me, if you will remember the examination that I conducted there, you can see some other matters that she told me.

The Court: Let's confine it to this impeaching testimony.

Mr. German: Your Honor, may I turn this over to Judge Allen? He is more acquainted with it than I am.

The Court: Yes.

Examination by Mr. Allen.

Q. Mr. Blakeney, in that conversation in Kansas City, did Mrs. Cobb say to you in substance that Mr. Page had agreed to take care of her the balance of her life if she would testify as to this boy and say nothing about the scar on his back? A. I don't think so, Judge, I don't think——

Q. Did she say anything to you——

Mr. Stuart: Well, let him get through with that answer. I want it in the record. What was your answer, Mr. Blakeney?

A. I said I don't think so.

Mr. Allen: I didn't know Mr. Blakeney was in town and I hadn't searched through this examination for impeaching questions.

The Court: Well, cross examine him to the extent you desire.

Mr. Hill: If the Court please, while they are waiting for another witness, we are not through——

The Court: Well, I don't like to mix this up.

Q. Mr. Blakeney, during this conversation that you had with Mrs. Cobb in the Federal Hotel in Kansas City, did she say to you in substance that she remembered the scar on this boy's back, and that she remembered as a little boy that old man Henry Carter, a vegetable huckster, came to Granny's and took him to the country and that he would return with him frequently and permit him to visit around there?

A. Yes, sir.

Q. And she continued to see him at Granny's?

A. Yes, sir, substantially that.

Cross Examination by Mr. Stuart.

Q. Now, Mr. Blakeney, who was up there with you when you went there?

A. I think Martin was but I am not sure, Judge, that Martin went up with me or not, now.

Q. Now, you didn't go up by yourself did you?

A. No, I think Martin went up and showed me the room, and I think when I was talking to the daughter that Martin was in the room with us.

Q. Where was Bell?

A. Oh, Bell wasn't with us at all that day. Bell met me as I went up and told me that the women were up there—wanted to see me, but Bell didn't go with me that day at all.

Q. Then you and Martin went together you think?

A. Yes, I think Martin waited down stairs and joined me——

Q. Have you related all the woman said to you?

A. Oh, no.

Q. On the impeaching proposition, she said to you that this boy had a scar on his back and that she saw him with a scar on the back and so forth?

A. Well, it didn't come up that way, Judge.

Q. It came up this way, it was a deaf woman, wasn't she?

A. Yes, sir.

Q. And you were asking her a leading question, embodying what you wanted her to say, yes or no, and would she say yes or no?

A. Embodying the subjects that I was suggesting, I probably said to her, introducing this subject, your daughter tells me you remember about Henry Carter taking him out from the town; and then she would say yes, and then she would start out and tell me, I remember old Henry Carter coming there and getting the boy when he was just a kid and putting him in the wagon and driving him around town and finally taking him out in the country, and the boy came in sometimes, and I saw him after I moved away from there, saw him bringing the boy back as he brought vegetables and so forth.

Q. What did she tell you about Page buying her?

A. So far as I can recollect, I don't think that the subject was mentioned between us.

Q. What did she say about Frank Long buying her? That wasn't mentioned either, was it?

A. Well, I don't think that the word buy—I believe that somewhere I got the information that she had received a consideration which I regarded reasonable—I don't remember what it was, for coming to testify.

Q. From what you got from her, what she had received didn't excite any suspicion on your part at all?

A. None at all; none at all.

Q. And she didn't there at any time, Mr. Blakeney, ac-

cuse Page or Long, or any of his crowd of trying to buy her, did she?

A. I don't think either Page or Long was mentioned in that conversation. I was trying to get my own evidence.

Recross Examination by Mr. German.

Q. Mr. Blakeney, you were not with—if Martin and Bell had a conversation with her at Leavenworth a day or so before that, you were not present? A. Well, I——

The Court: I think I understand that thoroughly; I understand that Mr. Blakeney was not at Leavenworth when the first conversation was had; that afterwards she came to Kansas City a day or two afterwards. First Bell went up and talked to her, and then after that, Mr. Blakeney.

Q. Mr. Blakeney, you had declined to go and see this woman for a while, hadn't you? A. Well, yes, I suppose so.

Q. At least you didn't go? A. I avoided her.

Q. You avoided her? A. Yes.

Q. You were the so-called big white man, is that right? A. Well, that is my own judgment of myself.

Cross Examination by Mr. Stuart.

Q. You mean to say, then, Mr. Blakeney, when she was referring to the big white man, she was referring to you and not to Page at all?

A. Well, my understanding of it was that every time she would meet Coody, or Mr. Bell, she would say, well now I don't want to talk to you. I want to talk to the big white man that has the money; and as I didn't have it I avoided her.

Mr. German: Judge, we didn't mean to indicate that she referred to Mr. Page in the conversation.

Mr. Stuart: Well, I don't know what it meant, and I suppose the Court didn't.

The Court: Well, I had the impression that it was some big white man at the head of this particular interest.

Mr. German: That is it.

Witness dismissed.

And thereupon, IRWIN DONOVAN, being produced as a witness on behalf of the United States, sworn and under

Direct Examination by Mr. German.

Q. What is your name? A. Irwin Donovan.

Q. What is your profession, Mr. Donovan?

A. Attorney at law.

Q. Practicing at Muskogee? A. Yes.

Q. What age are you? A. Nearly 38.

Q. Mr. Donovan, were you ever in the employ of the Dawes Commission?

A. Yes, sir, from September 25th, 1904, to January 8th, 1905.

Q. In what division of the Commission were you employed? A. Creek enrollment.

Q. What was the title of the office you held?

A. Law clerk.

Q. Law clerk. What was the practice of the Commission in the enrollment division with relation to the making of entries on census cards when an order was issued for the holding up of the patents which had been prepared, executed, approved and recorded but not delivered?

A. It was made at once.

Q. On the census card?

A. Yes; as a general rule, the letter comprising the order was written in Creek enrollment division by the chief clerk, or by me—that is, it was prepared and typewritten there, and then sent to the head office where it was signed by the Commissioner and delivered to us. When that letter was signed, we made a notation on the card.

Q. Now, take as an illustration this, Thomas Atkins case; I don't know whether you have seen this card or not. I haven't got it at hand to show you just now, but there appears a letter, written May 9th, 1905, addressed by the—signed by the Commissioner Tams Bixby, addressed to E. B. Miller—no, addressed to Heiny Haynes, I believe it is, H. G. Haynes, chief of the enrollment division, or substantially that, stating that in substance, that in as much as a question has arisen as to the citizenship of Thomas Atkins, enrolled opposite number 7913 on the Creek Indian roll, you are directed to suspend action in the matter of the issuance of patents to the heirs of Thomas Atkins; that is substantially the letter. Now, if that letter was received by the enrollment division, what action would be taken with relation to making a note on the census card?

A. If such a letter were received a notation would be made at once but that sort of a letter I don't think would come to the division; it would be written from the Creek enrollment division to the Creek Land Office to E. B. Miller, but we would make the notation when we wrote the letter.

Q. I see, the letter then would probably be written to the Land Office?

A. Yes, it would originate in the enrollment division.

Q. It was in the Land Office that such patents as I just referred to if issued, would be issued? A. Yes, sir.

Q. Then, at the time the letter would go out, what notation would be made on the census card?

A. Well, I don't know the exact form of it but it would be in substance your office is directed to hold up patents.

Q. And it would indicate why, as a rule?

A. As per letter, or see letter. It might give the reason.

Q. It might give the reason and would identify the letter by reference to its date? A. Yes, sir.

Q. And probably by reference to the party to whom it was addressed? A. Yes.

Q. And by whom signed? A. Yes, sir.

Witness dismissed.

Mr. German: Now, Your Honor in the matter of Mrs. Cobb's testimony at Leavenworth, when her testimony was taken, they had a Bible there which was not exhibited, which I was informed was the Bible showing the record of the birth of the Edwards family. Mr. Page stated on the witness stand that they had that Bible here. It has never been introduced, or used in connection with the testimony of any witness, and I would like to call upon counsel to permit us to inspect that Bible.

Mr. Stuart: Do you want the Bible?

Mr. German: Yes.

The Court: They want to inspect this.

Mr. Stuart: We will produce it.

Mr. German: We now reoffer in evidence what we have termed the hold-up records in the office of the Commission, they are the letters and the certified copies of the letters written in 1905 and of the entries made on the record in 1905 in the office of the Commission relating to the holding up of the Thomas Atkins patents, and relating to the holding of the issuance of these to the heirs.

The Court: Were they not offered in your case in chief?

Mr. German: Yes, sir, we offered them once and they were objected to and Your Honor sustained the objection; and then we offered them again later on and Your Honor held up action in the matter of the offer.

Now, in view of the testimony of Mr. Frank Long for the defendants, and of the testimony of Mr. Foreman, and other witnesses, we think they are clearly competent evidence on the question of notice to the defendant.

Mr. Stuart: We object to them, Your Honor, for two reasons; first because they are incompetent, irrelevant and immaterial, and because the identical question was raised in the Thlocco case, and the Supreme Court of the United States held that the delivery was not necessary of those patents and it could not be material in this case.

Mr. German: Now, it is not upon the question of delivery especially that we make that offer but it is to show that the defendant had notice that question was raised with relation to the citizenship of Thomas Atkins; knew that before they dealt in relation to the land, before they dealt with Minnie. They had notice of all this, constructive notice of all of them, and actual notice of part of them.

The Court: The objection will be sustained and exceptions noted.

Mr. German: Then we especially offer, Your Honor, letter of May 9th, 1905, to E. B. Miller signed by the Commissioner, which Mr. Long states that he saw and read.

Q. Is that objected to?

Mr. Stuart: No, I don't care about that.

The Court: It may be admitted. I am inclined to think that that is properly a part of your case.

Mr. Hill: That would only be introduced as to the Page interests, I take it under Your Honor's ruling?

The Court: Yes; it is offered for the purpose as counsel for the Government suggests, as he conceives, of tending to prove that the Page interests had notice of a question with regard to——

Mr. Hill: Mr. Long testified he read that letter himself.

Mr. Stuart: Yes, but he read it after the lease was executed.

Mr. Hill: I am not objecting on account of that but not as to our client.

Mr. German: We want to state that we don't agree to Judge Stuart's statement as to when he read it.

The Court: Alright.

Mr. German: Now, we offer in evidence again, Defendant's Exhibit Number 14; Your Honor will recall that that exhibit was a certified copy of the census card which on its face shows that it was certified on July 6th, 1914, and Mr. Long testified that he purchased that certified copy and it contained these pencil notations with reference to the suspension order in the matter of the issuance of the patents to the heirs of Thomas Atkins.

The Court: Now, that is already in the record by the defendant?

Mr. German: They identified it, but did not introduce it.

The Court: There is offered in evidence Defendant's Exhibit Number 14, which is a certified copy of the census card testified to by Mr. Long; is there any objection to that going into the record as evidence on rebuttal?

Mr. German: That should be B-14, Your Honor.

Mr. Stuart: We have no objection to it.

The Court: It may be admitted.

And thereupon, FRANK KERSTEN, a witness produced on behalf the complainant, sworn and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Frank Kersten.
Q. Mr. Kersten, where do you reside? A. Sir?
Q. Where do you reside? A. Leavenworth, Kansas.
Q. What age [] you?
A. 34 years of age the last of April.
Q. What position if any do you hold in the City of Leavenworth? A. City detective.
Q. Mr. Kersten, how long have you been engaged with the enforcement of the law in Leavenworth?
A. A little over five years.
Q. Are you familiar with the police records? A. I am.
Q. Of that city? A. Yes, sir.
Q. State whether or not whether you ever made a search through the police records to see whether in the '90's, there was a boy or any person arrested and incarcerated, or tried. by the name of Thomas Atkins, or Tommy Atkins?
A. No, sir.
Q. I asked whether you have made search?
A. I have made search, yes, sir.

Q. Did you find any record by that name at all?

A. There is no record shown of arrest of Tommy Atkins in the '90's or up to '97.

Q. Did you look beyond '97? A. Yes, I looked in 1900.

Q. You looked to 1900?

A. I looked to 1901, I think it was.

Q. Looked up to 1901? A. Yes.

Q. And did you find a record of his arrest at all?

A. There is no record of any arrest of Tommy Atkins.

Q. Did you find any record relating to the arrest of Tommy York? A. I did, sir.

Q. Very frequently?

A. I think he was arrested four times.

Q. Four times; in what year?

A. I think it is in the year of '97, if I ain't mistaken.

Q. Do you recall what the record shows you he was arrested for? A. He was arrested twice——

Mr. Hanford: Your Honor, I object to that as incompetent, irrelevant and immaterial.

The Court: The record will be the best evidence.

Q. Have you the record there, Mr. Kersten?

A. I have the record here, yes, sir; police court record.

Q. For what period of time?

A. Beginning July 21st, 1896.

Q. And ending? A. And ending October 30th, 1897.

Q. Will you refer to that and tell us what record you find on Tommy York?

Mr. Hanford: Now, Your Honor, I object on the ground that it is improper rebuttal, and on the further ground that it is incompetent, irrelevant and immaterial what arrest was made of Tommy York or anybody else.

The Court: What is your contention in regard to this as being rebuttal?

Mr. German: Simply this, Your Honor, some witness testified that he was a policeman in 1896 and '7, and I think that he arrested Tommy Atkins, as I remember it —Pat DeLaney.

Mr. Hanford: At Granny Letcher's house.

Mr. German: And we find no record relating to the arrest of Tommy Atkins.

The Court: It has been shown that——

Mr. German: But we do find Tommy York arrested several times on different offenses including as I believe an arrest for larceny.

Mr. Bond: The witness also said that he knew Tommy York and knew Tommy York was a bad boy and had been arrested; what is rebuttal in that or impeaching in that?

The Court: Well, the witness may show. I don't know whether it will show any light on this, I will hear it.

A. This is the record from 1897 to——

The Court: Well, now, you were interrogating about 1897, and prior dates. Let's stick to that, now, until we get through with it.

Mr. German: Well, if there is no record there about Tommy York——

Q. Is there, Mr. Kersten?

A. No, not in the first; this is the beginning of November 1st, 1897.

Q. That is where you find the record relating to Tommy York? A. Yes, sir.

The Court: My recollection of the evidence is that the period covered by the witness relating the testimony, that it was almost all, if not all, prior to 1898, anyhow.

Mr. German: Yes, sir, as I remember it was 1897, or—but he was on the police force during all this time.

The Court: Now, you have a record there that runs up to some date in '97; whatever that shows in relation to Tommy Atkins or Tommy York, I will let go in.

Mr. Hanford: Give us an exception, Your Honor please.

The Court: Exception noted. We will not go into that '98 record. I am satisfied that the '97 record will cover all the period in this case.

Mr. German: Your Honor, we have a record here of Pat DeLaney, arresting Tommy York in 1898 for petit larceny.

The Court: You may interrogate witness about that.

Q. Mr. Kersten, what record have you there on Tommy York in '98?

A. Do you mean the year of the beginning of the record?

Q. No, sir, that page 268-269? A. 269; Murphy——

Mr. German: Mr. Pinson read it upside down; it was Pat DeLaney, instead of petit larceny, so I beg the Court's pardon.

Q. Mr. Kersten, you knew Tommy York did you?

A. I did, sir.

Q. What kind of a looking boy was he?

A. Well, he was a colored boy; black, straight hair; I knew him at one time when he grew a mustache. His mustache was straight.

Q. That was when he was much older?

A. Well, that was in the last two years I could say.

Q. He is not living now, is he? A. No, sir, he is not.

Q. Did he have any appearance of an Indian when he was young?

A. Well, he had some features I could see, to the best of my judgment.

Cross Examination by Mr. Bond.

Q. Your best judgment is that Tommy York had straight black hair and didn't have kinky hair? Is that what you want to tell the Court? A. I know his mustache was straight.

Q. I am not talking about his mustache, Mr. Examiner; do you want to tell the Court that he had straight black hair and not kinky hair like a nigger's?

A. My best judgment is that his hair was straight.

Q. And not kinky or wavy? A. Not wavy.

Q. Didn't have even any kink in it?

A. I didn't see him with his hat off.

Q. Oh, you didn't see him with his hat off? Isn't it a fact that that boy was known as a negro around there all his life? A. I have known Tommy York in the last five years—

Q. In the last five years did you know him as anything but a negro? A. He is always known as negro.

Q. What is your position on the force?

A. I am city detective at the present; I was motorcycle policeman.

Q. Yes, before you were injured? A. Yes, sir.

Q. You knew Tommy York's mother, too, didn't you?

A. No, I didn't.

Q. Didn't know Cassie York? A. No, sir.

(Witness dismissed.)

Mr. Stuart: Your Honor, in this connection I want to offer a census card certified out of this office in 1910.

The Court: Is that identified by number?

Mr. Stuart: Yes, sir.

The Court: I mean for the purpose of this record?

Mr. Stuart: I am going to offer that; I sent for Mr. Humphrey to identify that.

The Court: Well, while he is coming, let it be marked as an exhibit in this case.

(Marked defendant's Exhibit B-25.)

Mr. Stuart: Before we commence this matter, we offer the testimony of Tommy York taken in Leavenworth in one of the state cases. Tommy York is now dead.

Mr. German: We object to it as hearsay, and incompetent, irrelevant, and immaterial; it wasn't taken in this lawsuit.

Mr. Stuart: No, it was taken at Leavenworth and he is now dead.

The Court: I think I have excluded evidence of that character already in this case.

Mr. Stuart: You did because the party was not dead, but out of the jurisdiction. But we now make the formal offer of Tommy York's testimony taken in Leavenworth to matters the same as now in controversy in this case.

Mr. Maxey: We object to that too, Your Honor. We offered the testimony of Henry Birney taken in the same case and that was ruled out.

The Court: The objection will be sustained and your exception noted. And the record may show your offer of that testimony.

And thereupon, THOMAS HUMPHREY was called as a witness for and on behalf of the defendants Minnie Atkins et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Humphrey, is this your signature? A. Yes, sir.
Q. You certified to that paper, did you not?
A. Yes, sir.
Q. And at the time you issued that paper, what was the period? A. April 2, 1912.
Q. 1912. That is a certified copy of Thomas Atkins' census card as it then existed in your office which you issued in 1912? A. Yes, sir.

The Court: I understand for the purpose of the record that the only portion of this exhibit offered is that other than lead pencil marks. Now, what exhibit is this?

Mr. Stuart: Defendant's Exhibit B-25.

The Court: I understand defendant's Exhibit B-25 if offered, it will be admitted.

Q. Now, that paper there contains every notation that was on the census card in your office when you certified to it?

A. Supposed to be.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. These lead pencil marks, Mr. Humphrey, that we have been talking about, that are on this defendant's Exhibit B-25 are written up at the top of the card and are these words: "Charlie Harrison, Harvey ditto, Number 5638," and some figures opposite the other name, and Charles Bailey and Mitchel Wadsworth, Guardians, Wagoner; are they not; I have read the pencil marks except the word "Dead" opposite the words "Atkins, Thomas"? A. Yes, sir.

Q. State whether the lead pencil word "Dead" written opposite the words "Atkins, Thomas" what you know about that?

A. I couldn't swear that was on there at the time it was made or wasn't. It has been so long ago since I certified to it. I imagine though it was on there.

Q. Now, you haven't seen the original—I think it is agreed that the original doesn't show that even yet?

Mr. Stuart: No, I don't agree to anything.

The Court: Mr. Humphrey, do I understand that you are uncertain as to whether this word "dead" in lead pencil immediately following the name Thomas Atkins on this certified copy, defendant's Exhibit B-25, you are uncertain as to whether that was on in lead pencil when you issued this certified copy?

A. Yes, sir.

The Court: Was it the practice in issuing certified copies of this character to note on the certified copy any portion in lead pencil, or was it all made in ink?

A. As a rule we made it in ink.

The Court: Under the practice then obtaining if the original card from which you made this certified copy had borne the notation "dead" following the name Thomas Atkins, would you, in making the certified copy, have written the word "dead" in ink or pencil?

A. Had I made the copy myself, I would have written it in ink. I didn't make the copy, I just certified to it.

The Court: Do you know what the practice was at the time?

A. The practice was to make it all in ink.

Q. Mr. Humphrey, you didn't do the work of making up that certified copy, did you? A. No, sir.

Q. All you did was to sign it. It was brought to you by some clerk in the office as a true and correct copy?

A. Yes, sir.

Q. You didn't even compare it with the original census card? A. Not myself.

Q. You just took somebody else's word for it that it was a copy as you always did? A. Yes, sir.

Q. It was a physical impossibility for you to make those comparisons? A. I couldn't do it.

Q. Now, you can't say to your own knowledge, whether that is a correct certified copy or not, because you didn't compare it? A. No.

Q. Now, Mr. Humphrey, when was it that you went out of the office of the Commissioner? A. 1914.

Q. What time in the year?

A. First of April, I think.

Q. Prior to the time you went out of the office, wasn't there a rule established that in making certified copies all lead pencil notations appearing on the census card should also be put into the copy?

A. They were supposed to be, put in everything on the card.

Q. But for a long time in making certified copies lead pencil work on cards was not put into the copies?

A. Not that I knew of.

Q. You didn't know about that practice?

A. I didn't know about that. I supposed everything that was on the original card was on the certified copy or it wouldn't be a true copy.

Q. Now, don't you remember, Mr. Humphrey, that some serious questions arose out of the fact that in sending out certified copies, you didn't put lead pencil notations that appeared on the census card on certified copies?

A. I don't remember of any special instance.

Q. Do you not for instance remember the Stephen Grayson case that I had something to do with, where there was a notation in lead pencil on Stephen Grayson's card that he had died in 1902, but that was put on in lead pencil, and when some party bought a certified copy of that that they didn't get a copy of that because it was not put on the certified copy; and that I raised some complaint about it?

A. I believe I remember.

Q. And shortly after that the rule was established that thereafter you would put in not only the typewritten and ink work but also the pencil work?

A. Well, it was supposed to be established then, he didn't think it belonged on there. As soon as it was discovered he was instructed to put it on.

Redirect Examination by Mr. Stuart.

Q. Mr. Drew OK'd this didn't he? A. Mr. Drew?
Q. What did he do there?
A. Mr. Drew is the man that made out the certified copy.
Q. What was Mr. Drew, what was his business there?
A. Making certified copies.
Q. He made the certified copy which somebody requested and brought it to you? A. Yes, sir.
Q. And you certified to it? A. Yes, sir.
Q. Where is Mr. Drew?
A. I couldn't tell you, I think he is down at Holdenville.
Q. And on Mr. Drew's O.K. you certified to that paper?
A. Yes, sir.
Q. Now, you didn't have anything to do with the certification then, except to put your certificate on?
A. That is all.
Q. You—— Did you ever examine any of those yourself?
A. Oh, yes, I have examined some of them.
Q. You gave certificates to some that you have examined yourself? A. Yes, sir.
Q. And whenever you examined one and sent it out, you put on everything that was on the one in the office?
A. Yes, sir.
Q. You didn't leave a thing off, whether it was in writing or in pen. If you examined and found some notations in ink and some written under in pencil, you put them all on when you sent them out?
A. I either put them on or had them put on.
Q. That was your custom when you made these examinations and made these certificates, wasn't it? A. Yes, sir.

Cross Examination by Mr. German.

Q. But you say you don't have any recollection to have made such an examination in this case? A. No, sir.
Q. And that numerous cases you did not make a personal examination? A. Yes, sir.

Mr. Hill: If the Court please, there is some mention about pencil entries that I want to make it clear. These entries which have been read as pencil notations at the top about Charlie and Harvey Harrison were not on the card when he got it from the Dawes Commission, but a mere memorandum which has been added since.

Mr. Stuart: I think so. I make no claim to that whatever.

(Witness dismissed.)

And thereupon, ELIZABETH DILLMAN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Elizabeth Dillman.
Q. What age are you, Mrs. Dillman? A. Forty-nine.
Q. Where do you reside? A. Fort Leavenworth.
Q. Fort Leavenworth, Kansas? A. Yes, sir.
Q. Speak out a little louder please, Mrs. Dillman. How long have you resided at Fort Leavenworth?
A. Off and on for the last thirty years.
Q. Off and on for the last thirty years? A. Yes, sir.
Q. Do you know Minnie Folk, nee Atkins? A. Yes.
Q. Where did you know her best?
A. Well, at Fort Lawton and Fort Wayne, Michigan.
Q. When did you go to Fort Lawton?
A. About ninety-four or five, ninety-four I think, 1894.
Q. But you knew Minnie well there? A. Yes.
Q. And without going into details, you also were at Fort Wayne when she lived there? A. Yes.
Q. And you knew her well there? A. Yes.
Q. Now, did you have any personal acquaintance with her at Fort Wayne and Fort Lawton? A. Yes.
Q. Talked with her lots of times? A. Oh, yes.
Q. Did you have a personal acquaintance with her at Fort Leavenworth? A. Well, no.
Q. Did you know her by sight? A. Yes.
Q. Where were you—— When was it you knew her by sight at Fort Leavenworth?
A. Well, about 1885 along there.
Q. Where were you born? A. Leavenworth, Kansas.
Q. You understood where Minnie was employed at Fort Leavenworth? A. Yes, sir.
Q. Where? A. By a Mr. Grodevant.
Q. Carpenter?
A. An Architect I think, something of that sort.
Q. Did you know where the Grodevant's lived there?
A. Yes.
Q. Where was it with reference to the prison?
A. Well, we called it back of the prison, called it Bluntsville.

Q. Where were you living at that time?

A. I was living directly in front of the prison on the main parade.

Q. In order for Minnie to go down town, state whether she would pass where you lived? A. Yes.

Q. Did you ever attend a Decoration Day service at the Post at Fort Leavenworth? A. Oh, yes.

Q. State whether or not you saw Minnie at the Decoration service at any time? A. Yes. Yes, I saw her there once.

Q. Did you notice her especially?

A. Just looked at her, yes, just noticed her as she passed.

Q. Was there anything that attracted your attention about her on that day? A. Nothing except her dress.

Q. What was peculiar about her dress?

A. She had a very bright gay colored dress on.

Q. Who was you with? A. I was with a friend.

Q. What was his name? A. His name was Purcell.

Q. Is he now Captain Purcell? A. Yes.

Q. You were then about what age?

A. About sixteen or seventeen, somewhere along there.

Q. Captain Purcell was your sweetheart? A. Yes.

Q. Now, Mrs. Dillman, did Minnie show any evidence of being in a family way at that time?

A. No, I can't say that she did.

Q. What Decoration Day was that, in what year?

A. That was about eighty-five.

Q. During those times that you would see Minnie, on other times when you would see her, where would you see her there in Fort Leavenworth?

A. Oh, off and on, just going around the Post.

Q. Did you know of her working at the Staffords?

A. No.

Q. You didn't know? A. No.

Q. Where did the Staffords live with reference to where you lived? A. Just a few doors away.

Q. What direction? A. South.

Q. Now, in order for Minnie, if she worked at Staffords, to go to town she would not pass where you were working?

A. No.

Q. Did you ever see Minnie there at the Fort when she appeared to be in a family way? A. No, I did not.

Q. Mrs. Dillman, you testified at Leavenworth in the County Court House there? A. Yes.

Q. In October, 1914, didn't you? A. Yes.

Q. And you stated that you didn't know Minnie out at Fort Leavenworth? A. Yes.

Q. And that—I don't remember just how you put it, but substantially that you only knew her by reason of people saying that she was there? A. Yes.

Q. That is substantially the way you put it. State to the Court how long before you gave that testimony that your attention was called to the matter of Minnie Atkins?

A. Well, just a matter of a few days.

Q. Under what circumstances?

A. Well, now, I can't just recall who the person was, but somebody came to see me. I can't remember who it was, but there was several different men came to see me, asked me what I knew about this Minnie Atkins.

Q. How long before you gave your testimony before the first person spoke to you? A. Three or four days.

Q. Had you given any thought to this matter?

A. Not the slightest. In fact, I had almost forgotten.

Q. Now, you were brought on the stand there because Minnie was in town? A. Yes.

Q. And they wanted you to identify her? A. Yes.

Q. You had known her well at Fort Lawton and at Fort Wayne? A. Yes.

Cross Examination by Mr. Stuart.

Q. You didn't know her at Fort Leavenworth at all? Did you? A. Not personally.

Q. The fact is you had no acquaintance of any kind with Minnie Atkins in Leavenworth? A. No.

Q. You never had spoken to her personally? A. No.

Q. You never had had a conversation with her?

A. No, sir.

Q. And all you know of her was that you would see her occasionally? A. Yes.

Q. And she afterwards moved from Leavenworth to Fort Logan, Fort Wayne, was it? A. Fort Logan, Colorado.

Q. And there you got acquainted with her? A. Yes, sir.

Q. And that is the first time you had ever spoken to her in your life? A. Yes.

Mr. Stuart: That is all.

(Witness dismissed.)

And thereupon, J. C. KENNEDY was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. You have been on the witness stand before in this case. What is your position in the office of the Superintendent for the Five Civilized Tribes?

A. Chief clerk of the royalty division.

Q. You were formerly chief clerk of the enrollment division were you?

A. Well, the land office division, but it included the enrollment department also.

Q. That was after the two were combined? A. Yes, sir.

Q. The enrollment division and the land office?

A. Yes, sir.

Q. Placed under one head? A. Yes, sir.

Q. You were at the head of that division? A. Yes, sir.

Q. When were you at the head of that division?

A. Well, there was a time when the Cherokee Land Offices and the other land offices were separate. I was at the head of the Cherokee Land Office from about September 15, 1911, up until January 28, 1915, and about April 7, 1914, the Choctaw, Chickasa, Creek and Seminole Land Offices, and the Cherokee, were all put under one head.

Q. Mr. Kennedy, do you remember what the practice of the Commission used to be with reference to entering on certified copies of census cards pencil notations?

The Court: Now, you have here a question relating to 1912, I take it, that is the point?

Mr. German: Yes, sir.

The Court: Well, let's get to that.

Q. In 1912, what was the practice in the matter of putting on copies, which were to be certified, certified copies of census cards, pencil notations that appeared on the original census card? A. Well, we didn't put them on.

Q. Did you late- adopt the practice to put them on?

A. Yes, sir.

Q. Do you know about the adoption of that practice?

The Court: Isn't that all covered in the evidence? This witness or some witness testified I am sure with reference to that.

Mr. Allen: If the Court please, this witness was in charge of that division, it was by his direction.

The Court: All right. I thought he had testified about it.

Q. When was it you started the practice of putting on pencil notations that appeared on original census cards when you made a certified copy if you recall?

A. Well, it was undoubtedly in 1914.

Q. Do you know what time in the year?

A. No, sir, I don't.

Q. Did you have anything to do with the direction of that thing, in making orders changing the practice?

A. I don't recall it—— You mean with changing the practice?

Q. Yes? A. Yes, sir, I did.

Cross Examination by Mr. Stuart.

Q. If you were to come across a census card now in that office and if a man would ask for a certified copy of it, and you found a notation in ink and right under it, said ordered not to be delivered because party found to have died prior to April 1, 1899, wouldn't you put that on that certified copy?

A. Now, I would.

Q. Wouldn't you have done it in 1912? A. No, sir.

Q. Will you tell me why, who started that rule?

A. Not to put it on?

Q. Yes? A. I couldn't tell you.

Q. Who ever told you not to put on a census card a notation there that a man's deed hadn't been delivered and that he died prior to April 1, 1899?

A. I don't recall that we ever had any orders of that kind.

Q. If that hadn't been there you wouldn't put it there?

A. No, sir. W. S. D. Moore was at one time in charge of the Cherokee Land Office and his instructions were to me not to put them on there, that they were simply notations for the office and that after it had been established it would be put on there in ink.

Q. Well, suppose the fact that it was put on there had already been established, what about that?

Mr. German: He is not talking about the entry, he is talking about the facts.

Mr. Stuart: I thought I understood him.

Q. There would be a notation and when those facts were established that would be put on in ink? A. Yes, sir.

Q. Then, it didn't make any difference what there was in pencil, you didn't put it on the certified copy? A. No, sir.

Q. And if it did say, "Party died prior to April 1, 1899, deeds withheld and returned to the Choctaw, or Chickasaw, or Cherokee, or Creek Chief," as the case might be, you wouldn't put it on? A. No, sir.

Q. Now, you have examined that before, haven't you?

A. I have seen it before.

Q. In your judgment, when was that pencil notation put on? A. I told you the other day I didn't know, Mr. Stuart.

Q. Well, I would like to know your judgment?

A. I wouldn't attempt to say.

Q. Is that first pencil notation there in the same handwriting as the second? A. No, sir.

Q. It is not? A. No, sir.

Q. Now, you have the ink notation up here, "No. 1 on 1895 Authenticated Roll No. 213 as Foss Atkins"? A. Yes, sir.

Q. Then somebody else wrote E. B. Miller, Chief Clerk? Do you know whose handwriting that is?

A. Yes, sir, Mr. Funk's.

Q. But this below there, is it a different handwriting and you have never seen anybody in that office that wrote that kind of a hand? A. I couldn't say as to that.

Q. You don't recognize it as the handwriting of anybody in that office?

A. I have been out of that office for three or four years and I have dismissed the handwriting of all except Mr. Funk.

Q. That of Mr. Funk stuck to your memory?

A. Well, Mr. Funk stuck.

Q. As a matter of fact, you don't recall any clerk that was ever in that office whose handwriting was similar to that?

A. I don't recall it, no, sir.

The Court: I would like for the record to show what exhibit is now being inquired about.

Mr. German: It is the exhibit of which Government's Exhibit A-1 is a certified copy.

Mr. Hill: You mean the original?

Mr. German: Yes, it is the document that the witness has been talking about and is the original of Government's Exhibit A-1.

Redirect Examination by Mr. German.

Q. Mr. Kennedy, you were not in the Creek Land Office in 1905, were you? A. No, sir.

Q. Where were you at that time? A. In the Choctaw and Chickasaw Land Office in Muskogee.

Q. In Muskogee, but in the Choctaw and Chickasaw Land Office. At that time, in 1905, approximately how many employees did the Dawes Commission have?

A. In the general office I should say about a hundred and fifty.

Q. Then they had employees located at sub-offices?

A. Yes, sir, land offices scattered throughout the country in the various nations.

Q. Now, there was a Creek Land Office separate from the office you were in in 1905? A. Yes, sir.

Q. You were in the Cherokee Land Office?

A. I was in the Choctaw-Chickasaw.

Q. And other people were in the Creek? A. Yes, sir.

Q. And you don't know in whose handwriting this notation is "E. B. Miller, Chief Clerk Land Office"? A. No, sir.

Q. Now, what was the practice—— You stated that notations would be made in ink instead of lead pencil after a matter was decided? A. Yes, sir.

Q. But when a question with relation to the enrollment was pending and undecided a lead pencil notation would be made on a card? A. That is true.

Q. With reference to the matter? A. Yes, sir.

Q. Now, this lead pencil notation on this census card of Thomas Atkins indicates that in 1905 a question was raised with reference to his citizenship and for that reason the matter of issuing——

Mr. Stuart: I object to that question, because it calls for a conclusion.

The Court: It seems to me that this is being smothered in a lot of matter that will make it more difficult for me.

Mr. German: Just one question.

Q. Until right lately—— And the notation I am about to talk about isn't in evidence—— But until right lately the lead pencil matter that appears on this Atkins card was not taken the place of by any ink work until right lately?

A. I haven't examined the card.

The Court: Do you know, Mr. Kennedy, whether now the notation that appears on that document is reduced to ink?

Mr. German: I don't mean to contend that it is. Judge Stuart developed that they put a lead pencil notation on until the matter was determined and then put it in ink. I am asking him pursuant to that lead pencil mark there has been an ink notation.

The Court: The card shows there hasn't. The card shows that that pencil notation is still a pencil notation. According to the witness' testimony it is not yet established.

Mr. German: I want to ask the witness if it hasn't been followed up and become established. I am not trying to disregard the Court's ruling in excluding the cancellation order.

The Court: You contend that as to this particular card what was originally lead pencil is now established by evidence which the Court has excluded.

Mr. German: And that a notation has been put on the card with reference to that matter.

Mr. Stuart: And that that is in red ink on the card reciting the judgment of the Secretary of the Interior.

(Witness dismissed.)

Mr. German: That is what I wanted to establish.

Mr. Allen: I think this is important. The witness' testimony shows that a pencil notation just for the benefit of the office is made. When a matter is pending——

The Court: I understand that thoroughly, Judge.

Mr. Allen: And that finally when action is finally taken on that, that the final action of the Secretary is noted in ink.

The Court: I understand that, Judge, thoroughly. That was his testimony.

And thereupon, Court recessed until nine-thirty A. M., June 6th, 1917.

And thereafter and on Wednesday, June 6, 1917, at ten o'clock A. M., Court reconvened pursuant to adjournment and the following proceedings were had:

And thereupon Dr. FINIS W. EWING was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age, business and place of residence.

A. Finis W. Ewing; thirty-eight years of age; physician by profession; 317 North Fifteenth.

Q. Are you associated in the practice of medicine with any other physician?

A. Doctor F. B. Fite and Dr. J. L. Blakemore.

Q. Doctor, where did you take your line of study in the medical profession?

A. I had two years in Kansas City and two years in Baltimore.

Q. How long have you been engaged in the practice of medicine?

A. With the exception of two years, that is two school years, I have been engaged since March, 1899.

Q. Continuously?

A. With the exception of these two school years; I began practicing before I graduated.

Q. Doctor, have you during the period of your practice of your profession been frequently engaged in obstetrical cases? A. Yes, sir.

Q. Can you estimate or give approximately the number of obstetrical cases in which you have either officiated or assisted? A. Roughly speaking a thousand or eleven hundred.

Q. Have you made a study of the laws governing pregnancy and childbirth as a special study?

A. Well, I am not a specialist in obstetrics.

Q. What I was trying to get at doctor, is it necessary for you in the line of practice in which you are engaged to make a study of those particular branches of the medical science? A. Yes, sir, it is.

Q. Doctor, into what periods or stages is childbirth, or labor as we may term it, divided?

A. Well, the accepted periods or stages of labor are first, second and third distinct stages.

Q. Now explain those three stages to the court giving an idea of the process that takes place in each stage.

A. The period—included in what is called the first stage of labor is that stage in which the uteris is beginning to contract with an effort to expel the contents of the organ and is a more—possibly better understood by the term, the dilating period; the dilating of the mouth of the womb or uteris.

Q. Now, before we leave that stage, doctor, what is the dilatation of the uteris; what is the function of that dilatation, why is it necessary?

A. It is necessary for the mouth of the uteris to dilate to permit the passage of the infant.

Q. During the period of gestation prior to the expiration of the term what is the normal condition of the mouth of the uteris, that is of the cervix, open or closed?

A. Well, it is closed during the pregnancy up to the term.

Q. The mouth of the uteris is closed?

A. The mouth of the uteris is closed.

Q. Does that constittue a support for the foetal body?

A. Yes, sir, it is necessary for the mouth of the womb to be closed to retain the contents.

Q. The contents? A. The contents.

Q. During the first period or stage of labor, as I understand you, there is a contraction of the uteris, which forces the contents of the uteris down upon the cervix and causes or creates a dilatation at that point? A. Yes, sir.

Q. At the same time that the action of the muscles force the contents of the womb downward, Doctor, is there any other muscular action that has any effect upon the walls of the cervix?

A. Well, the walls of the uteris is a muscular body, a mass of muscles, and in the contraction of those muscles they are so arranged that—to dilate the cervix or the mouth of the womb they thin out in the contraction of those muscles, they thin at the cervix or the mouth.

Q. Now, in the normal stage the cervix is in what shape?

A. Round, just a round opening.

Q. A round opening? A. Yes, sir.

Q. What is the thickness of the walls at the cervical aperture approximately? A. At term you mean?

Q. Well, I mean prior to the time that any dilation has taken place or any thinning of the walls has taken place?

A. Well, the cervix is composed, the opening is composed of two rings or mouths; the internal and the external.

Q. Now, betwen those two what is the distance?

A. The distance is very short at term. When pregnancy first begins, when conception takes place, this is about an inch and a half, about an inch in the normal uteris as labor —that is as pregnancy progresses that distance becomes shortened until at term the length of the cervix is shortened to almost one neck or one os, is almost in contact with the other.

Q. Now, during the pressure downward from the fundus, I believe the contractions begin at the base of the uteris do they not? A. Yes, sir, the body.

Q. Body. And during those contractions downward is there at the same time a drawing upward of the muscles or the substance on those thickened walls does that draw upward in the direction of the head or body of the foetus?

A. Well, the effort of the muscular contraction of the body of the womb is to pull up and widen or open the ring of the cervix into a wider opening.

Q. Then the thickness which exists there of approximately an inch and a half in the beginning, does the substance which forms that thick wall extend down into the vagina or outward? A. No, sir, out into the pelvis.

Q. Doctor, illustrate to the court what is the consistency of the crevix during the normal stage when there is no pregnancy or at the beginning of pregnancy?

A. Well, the cervix before conception begins is hard; it is not hard it is not cartilaginous but it has—it is firm.

Q. To illustrate is it a good deal like the tip of the nose?

A. Pretty much, about as cartilaginous as the extreme tip of the nose.

Q. Through pregnancy what changes take place in the consistency of the cervix?

A. Immediately after conception there is a softening, a velvety sensation to the touch; that is one of the first signs of conception; and as labor progresses under normal conditions this cervix becomes possibly somewhat more softened all along during the different periods.

Q. Now you use the expression at term to indicate the final day or—— A. The end of pregnancy.

Q. End of pregnancy? A. Yes.

Q. So that at term time the cervix in any case of pregnancy is of what consistency? A. Soft.

Q. What is the second stage then of labor, Doctor?

A. The second stage—now the first stage of labor terminates when the dilation of the mouth of the womb is complete, and the second stage begins then, or at the time the head or the presenting part of the foetus becomes engaged in the bony part of the pelvis.

Q. What is the second state?

A. That is the beginning of the second stage, and the second state continues then during the passage of the foetus through the bony parts and the expulsion of the foetus.

Q. And the third stage is?

A. The third stage is simply the expulsion of the afterbirth or placenta.

Q. Doctor, what is the function of the first pain which a woman feels at the beginning of labor, what causes it?

A. The purpose of that pain is the opening—the opening of the cervix to permit the passage of the foetus.

Q. Then that pain is caused by the muscular contraction of the uteris in an effort to force its contents out?

A. Yes, sir.

Q. And that brings about the dilation I believe you say?

A. Yes, sir, it has the double action; the muscular pain has the double action of drawing out the cervix into a thinner membrane and also of pushing down the body that is within the womb too; it has the double purpose of thinning out, pulling out from above, and pushing down from within.

Q. Yes, sir. Now, the result of those pains then is that eventually the opening reaches a stage where it is practically flush with the vagina, at which time the head passes through and engages? A. Yes, sir.

Q. Doctor, what is caused as a rule in the cervix by the birth of the child, what injuries?

A. As a rule there is some laceration of the cervix at the passage of the child.

Q. That is ordinarily found in all cases where the child arrives at full term is it not?

A. That is usually yes, usually the result of labor.

Q. Are those lacerations ever caused by child—by an abortion or early miscarriage? A. Yes, sir.

Q. In your experience what is the earliest period of pregnancy at which an abortion or miscarriage produced laceration of the cervix?

A. I have known of—where instrumental methods were used to relieve the uteris of its contents, of lacerations at the end of—just immediately after conception began, where they was some—it is not the act of abortion that produces that laceration; it is the instrumental interference, but I have known a recent occurrence in my practice where a woman, a young married woman aborted from some unknown cause at about the middle of the third month of conception and had a very severe laceration.

Q. Now, doctor, when those lacerations heal what is the nature of the structure left at the point of the laceration?

A. Well, a scar tissue of course and the presenting portion presents a notched or nodular appearance on the cervix of the womb; there might not be much of a notch but more cartilaginous knobby body presenting itself.

Q. In making an examination of the cervix during labor, state whether or not in your opinion is possible to determine whether or not such lacerations or the scar tissue resulting therefrom existing upon the cervix are from a former pregnancy, or from some former cause prior to the present labor?

A. Well, I don't think it would be possible to make a very positive diagnosis or positive finding from an examination—from a simple manual examination.

Q. Doctor, after dilatation has begun what do you say—after the normal dilatation of labor has begun, what do you say as to the possibility of making such diagnosis?

A. After dilatation has become pretty well established I think it would be impossible.

Q. Impossible; what is the purpose of the examination, an internal or digital examination made by a physician, if he makes one at the time of labor, is called in, what is the purpose of making such an examination?

A. The primary purpose is to determine whether or not the presentation of the foetus is normal; and, second, to determine if the bony parts of the mother is sufficient in size

—opening is sufficient in size through the pelvis to permit the transmission of the foetus. Those are the cardinal elements.

Q. Now, in making that examination, Doctor, do you recall ever having made an examination at the same time to ascertain whether there were evidences upon the cervix of previous laceration? A. I never did.

Q. Did you ever know of anyone making such examination? A. I did not.

Q. How is that fact if it is determined, how is that ordinarily determined, the fact of previous birth?

A. By questioning the patient.

Q. Of what importance relatively is the fact that a previous birth has occurred, or more than one?

A. The information obtained in that way could only be for the purpose of determining the likely length of time the labor would continue.

Q. Now, in connection with that do you ascertain whether any abnormalities occurred in connection with the previous birth?

A. That would be the thing; in making—asking the question whether or not there had been previous labors, if the answer was affirmative, it would be immediately followed by the question whether the previous labor was normal, and that would be for the purpose of determining whether you had a normal condition likely to deal with.

Q. Now, Doctor Ewing, you use the term primipara to designate a woman giving birth to a first child, and multipara to one giving birth to prior children, before? A. Yes, sir.

Q. What is the difference betwen the primipara and the multipara as to the rapidity of dilatation at the beginning of labor?

A. Under ordinary condition the dilatation of the primipara passes through a much longer stage.

Q. Now, what has been your experience with regard to the external os as to its being open or closed in the multipara at term?

A. My observation and experience has been that in the multipara at the end of term and beginning of labor even the pains have been—become hard or permanent, and external os is usually dilated and soft.

Q. And is it possible to introduce the finger into the opening if any prior to labor? A. Usually yes, sir.

Q. In multipara? A. Yes, sir.

Q. That is not the case in primipara? A. No, sir.

Q. Then, Doctor, suppose you were called to a case where the woman was in intense pain, appeared to be a normal woman, a normal presentation; and the woman appeared to be in

intense pain, and that the pain had been in progress for approximately an hour, and you found that no dilatation of the cervix had taken place, what would be your diagnosis as to whether that woman was a primipara or multipara?

A. Acting on that basis I would say—and from other evidence, I would say she was a primipara.

Q. In the absence of other evidence? A. Yes, sir.

Q. Now, Doctor, the examination as to the—is the examination for previous lacerations, as an indication of prior birth, ever a satisfactory—does it ever bring about a satisfactory diagnosis? A. An examination?

Q. Yes, sir, that alone?

A. Oh you mean a manual examination?

Q. Yes, sir. A. No, sir.

Q. What examination is necessary in order to determine that accurately?

A. It is necessary to determine that by a digital examination, by examination with a spectulum actually look at the organs.

Q. In that case the examination is made with the eye itself, is that true? A. Yes, sir.

Q. Doctor, what about the possibility of a similar scar tissue or knobule being caused by any disease of any character?

A. Disease could readily produce scar tissue or appearance of the cervix that would readily deceive almost any examiner.

Q. That is with the fingers? A. Yes, sir.

Q. That wouldn't deceive the eye?

A. Might deceive the eye.

Q. Might even deceive the eye?

A. Might deceive the eye; the same observation might occur from erosions or ulcers that would be apt to occur from a tear.

Q. Now the common method of producing an abortion is by means of an instrumental manipulation of the womb isn't it? A. That is the most successful way.

Q. That is what I mean. Now, an unsuccessful handling of those instruments is it possible for them to cause a tear or laceration? A. Yes, sir.

Q. That might be a similar laceration to that caused by pregnancy or childbirth? A. It might be.

Q. Doctor, about the length of time that pregnancy remains concealed; let's assume that a woman is approximately five feet six inches tall; weighs from a hundred thirty-five to 150 pounds and is of a voluptuous form; is not a well tailored or well groomed woman, in your opinion how long would preg-

nancy in such a woman be successfully concealed even from a casual observer?

A. I think it would be hard to conceal at six months.

Q. Did I understand you to say it would be pretty hard to conceal at six months? A. Yes, sir.

Q. What do you think of the possibility of a woman of that build that I have described concealing pregnancy, the woman being an ordinary household servant, concealing pregnancy during the seventh, eighth and ninth month?

A. I don't think it would be possible.

Q. In case of the birth of a child, Doctor, in the normal woman, lactation begins shortly after birth isn't that true?

A. About the third day, yes, sir.

Q. Now how long normally does that lactation continue?

A. The course of lactation continues very indefinitely with different women; some women will continue nursing their babies for a period of two or three years; others only a few months.

Q. Now what does the continuance of lactation depend upon?

A. Well, the continuance of lactation depends first on the nourishment of the patient or mother, the woman who is lactating; proper nourishing is necessary for her to lactate; regular emptying of the milk vessels is necessary.

Q. Now, Doctor, that emptying of the milk vessels, if done by manual manipulation without the use of a breast pump at any time, would take about how long at each emptying or each time when the breast became full?

A. Oh about fifteen minutes.

Q. The necessity would arise for emptying the breast about as frequently as a baby would nurse would it not?

A. Yes, sir.

Q. Now about how frequently during the first six months does a baby require nourishment?

A. The baby requires nourishing about every two hours in the greater portion of the twenty-four; the practice is to order the baby to nurse at a period of fifteen minutes during every two—during sixteen hours of the day; that would be eight nursings; and then about every three hours during three or four months.

Q. Then during the first three or four months the baby would nurse from ten to eleven or twelve times a day?

A. Yes, sir.

Q. Now, in your opinion would it be necessary where a woman was apart from the baby except for one nursing, say during the day, would it be necessary for that woman to expel the milk from her breast at each period at which the baby

naturally normally would nurse? A. Approximately, yes, sir.

Q. You say the baby nurses fifteen minutes; that means that it requires approximately fifteen minutes for it to empty the breast? A. Yes, sir.

Q. The baby is constructed for emptying the breast more skilfully and quickly than the hands are, is it not?

A. That is true.

Q. Doctor, what is the period of gestation in human beings? A. Two hundred eighty days.

Q. What is approximately the shortest interval that can occur between the giving birth of one child and the giving birth of another? A. Theoretically about ten months.

Q. Well in practice what is the shortest time it has ever been your observation?

A. My recollection is right now about sixteen months.

Q. About sixteen? A. Yes, sir.

Q. There are customary cases running around twelve and thirteen months?

A. Yes, I have heard of but I don't recall having had in my practice any children that were closer together than about sixteen months.

Q. Now, Doctor, what normally is the relation between lactation and a subsequent pregnancy; what is generally the rule about that?

A. The general rule of lactation is the absence of ovalation and of course the absence of ovalation prevents conception.

Q. In ordinary cases during the time a woman is nursing a baby she does not become pregnant again? A. No, sir.

Q. There are exceptions are there not?

A. There are exceptions.

Q. Can you give the court an idea of the exceptions in the thousand or eleven hundred cases that you have been familiar with? A. I don't think to exceed a half dozen.

Cross Examination by Mr. Stuart.

Q. Doctor, you say your practice is here in this city?

A. Yes, sir.

Q. Whose office are you in?

A. I am in my own office; I am associated in the office with Doctor F. B. Fite and J. L. Blakemore.

Q. Did you ever talk with Doctor Fite about this subject? A. No, sir.

Q. Do you and he agree on this?

A. I have never talked to Doctor Fite about this at all.

Q. You physicians reason inductively altogether, you don't deduce anything? A. Sir?

Q. You reason inductively figure a hundred cases go a certain way, you reason the hundred and first would go the same way, that is the theory of reasoning, you reason from the given cases based on past experience don't you, that a certain thing will happen under given conditions?

A. Yes, sir, largely.

Q. Now, you know, Doctor, don't you, that the first labor of a woman is the most difficult, the most trying and the most dangerous don't you? A. Yes, sir.

Q. That is always true? A. Yes, sir.

Q. That is always true?

A. You can say, Judge, it is always true.

Q. Well, that is the general rule?

A. General rule, yes, sir.

Q. First because it is the first time that the parts are forced to the necessity of giving birth and second because you can't tell just what is going to happen can you in the first pregnancy?

A. Well, the principal reason, the first reason you gave is the predominating reason.

Q. Now, Doctor, lacerations occur more frequently in the first pregnancy than in any other the child being the same size in each pregnancy? A. More apt to yes, sir.

Q. More apt to occur in the first pregnancy? A. Yes, sir.

Q. And during the first pregnancy the lacerations are more apt to occur near the mouth of the womb, which you call the cervix, than any where else in the womb aren't they?

A. Well, that is where the lacerations, difficult lacerations always occur.

Q. Always will occur? A. Yes, sir.

Q. You spoke of erosions of the womb, those erosions and ulcers or anything of that sort usually have scooped out appearance to the touch, they are not like the notches?

A. Well, you might have a notch or a large opening depending on the extent of your lacerations or the erosions, the nature of it.

Q. But to the sense of touch the *the* last results of an erosion are not the same as the ordinary notches are they?

A. Under ordinary conditions they are not the same.

Q. Are not? A. No, sir.

Q. Now, if you went to a woman in pregnancy and you examined her womb and did it with your hands or fingers through the sense of touch and you were inside of the neck of the womb and find certain pronounced *notes* there, would you say that they were caused by that pregnancy or caused by a prior pregnancy?

A. They wouldn't be caused by that pregnancy.

Q. Then they must have been caused by prior pregnancy, Doctor, if they are in pronounced form?

A. If you have a laceration you would have it produced by some previous condition.

Q. Some previous condition and it would ordinarily be produced by child labor? A. That is the most common.

Q. The most common thing. And that laceration occurring in that particular labor would be followed normally by these notches as the last results of the lacerations would it?

A. Yes, you have the scar tissue resulting from any laceration.

Q. Now, then, if you went to a woman in labor and by the touch you didn't know whether it was her first child or not, and by the finger manipulations you discovered pronounced notches inside and near the cervix, you would conclude at once that they could have been caused [] a prior labor?

A. Naturally that would be the conclusion.

Q. Naturally that would be the conclusion. Now, Doctor, this thing of concealing pregnancy is one of the mysteries of obstetrics, isn't it? A. Well——

Q. You know as a practitioner that you have known hundreds of cases where the ordinary man could not tell a woman was pregnant at eight months if she laced and protected herself against it? A. Well——

Q. It depends upon the physical formation of the woman generally? A. Some.

Q. The way she dresses? A. Yes, sir.

Q. All those things help to conceal pregnancy don't they?

A. Yes, sir.

Q. And as a matter of fact as a practicing physician you have seen woman after woman in your life, compared to mine, whose pregnancy was not discovered with the naked eye at six and seven and eight months? A. I don't know that I could.

Q. I am not talking about the eye of a doctor now, I am talking about the eye of a layman?

A. Well, I haven't been a layman since I reached my majority.

Q. Well, then you can't testify as a layman. Now, then you say the period lactation, when a woman's milk is running, that ordinarily that is not consistent with a new pregnancy?

A. What is that?

Q. If a woman—a woman's milk, period of lactation when her milk is running from a present child, ordinarily pregnancy did not follow again until that milk is somewhat exhausted?

A. No, that is true as long as the period of lactation is continued.

Q. But as a matter of fact you haven't got any certain rule on that subject have you?

A. No, there is—the rule is that they do not become pregnant, but the rule of course is not positive.

Q. That is it *it*. A. Exceptions.

Q. In other words you have seen case and case and case, Doctor, where a woman is absolutely nursing another child and running freely of milk get pregnant haven't you?

A. Not case after case.

Q. But you have seen lots of them? A. Well, several.

Q. Yes, several.

A. Possibly half a dozen I don't think to exceed that.

Q. Now, then you say that sometimes they get pregnant ten months after child but the ordinary rule is six months; you have seen that vary all the way from ten to sixteen haven't you? A. Sir?

Q. You have seen that vary all the way from ten to sixteen months? A. No.

Q. You have seen women become pregnant from ten to sixteen months after the child?

A. No, I didn't say ten months, I think about sixteen months. Theoretically it is possible.

Q. Theoretically ten to sixteen. You of course when you go to wait on a woman, especially a young woman, the good practice would require you at once to satisfy yourself in some way if you could whether it was her first child?

A. Yes, sir.

Q. That is always true? A. Yes.

Q. It is wise to do it and it is proper to do it? A. Yes, sir.

Redirect Examination by Mr. Pinson.

Q. You accept a woman's statement for that fact that it is her first child don't you, Doctor? A. Yes, sir.

Q. In the case of a first pregnancy where it has been ascertained that the parts, the bony parts, are sufficiently large to permit the head to pass, and that the woman is in a normal condition of health, what other dangers exist in the first pregnancy than in any subsequent pregnancy?

A. Well, of course the danger of lacerations and tearing of both the mouth of the womb and perineum, the vaginal walls are in greater danger in the first than subsequent pregnancy, and hemorrhages that attend such injuries as that.

Q. However those are matters that the doctor can not well control aren't they? A. No, sir.

Mr. Stuart: Well, now, I don't think he ought to lead this witness he is an expert.

The Court: Let the witness testify.

Q. I am tryig to get at this, Doctor: Judge Stuart asked you whether the first pregnancy was the most dangerous. Explain to the court wherein the danger is greater in first pregnancy than subsequent pregnancy.

A. Well, the danger in first pregnancy is greater because of the fact that the patient has not the—you might say the experience of a labor. If she has been through one, if the patient has been through one labor, she would have that experience to guide her and assist during this time. Also the tear or lacerations are more likely to be attendant on the first labor than a subsequent labor would be more great.

Q. Now, Doctor, on the other hand as to a woman in her second or some subsequent labor the dread that is present creates an unsatisfactory nervous condition does it not?

A. Yes, that is one of the things of course to be contended with that we possibly don't have to contend with so much in the other labors.

Q. Now if the bony parts are sufficiently large and if the presentation is normal, so far as the life of the child and the woman are concerned, you don't fear for them any more in the first pregnancy, except for the lacerations, than you do in the second do you? A. No, sir.

(Witness dismissed.)

Mr. Hanford: If the Court please, in connection with the testimony of Elizabeth Dillman who testified last Saturday, it was agreed with counsel for the Government, that I might offer certain questions and answers from her deposition taken in the State case at Leavenworth where she formerly testified, so that it will be unnecessary to hold her here during the three of four days recess. I would like to just read these questions and answers with the understanding that she would admit if she were still testifying that she had testified as the deposition reads, if she were here. This deposition was taken in Leavenworth in October 1914.

Mr. German: The witness testified about it.

The Court: I think so; I understand at any rate that this former testimony of hers is in relation to the same matters about which she testified on the stand.

Mr. Stuart: And that she was testifying at Leavenworth, remember that, to get the contexts.

Mr. Hanford: Reading from page 339 of the transcript that is in evidence as an exhibit: "Q. In your life

time, have you ever been acquainted with a woman by the name of Minnie Atkins? A. Yes. Q. About how long ago did you become acquainted with her? A. Twenty-one years ago. Q. Where was it that you first met her? A. At Fort Logan, Colorado." And on cross examination by Mr. Lytle, at page 341: "Q. You don't know of your own knowledge I take it where this Minnie Atkins came from? A. She came when I first met her, she came from Leavenworth. Q. She came from Leavenworth? A. She was in Leavenworth before she went to Fort Logan. Q. You never knew her? A. No, I didn't know her. Q. All you know about her coming from Fort Leavenworth is what someone told you? A. Yes, I knew she was here. Q. You didn't see her here? A. No, sir, but I know she was here. Q. You know that because someone told you.

"Mr. Rice: Just answer the question; if someone told you; tell him yes.

"A. Why, several people knew her here and told me. Q. Yes, several people knew her here and told you? A. Yes, sir. Q. Did you see her working here? A. No, sir, I didn't see her. Q. That is what someone told you is it not? A. Well, I suppose it was but I have no reason to doubt the truth of it."

Mr. German: Your Honor, we offer the deposition of Thomas Mozee, appearing at page 3218 of Mr. Penick's transcript.

And thereupon, THOMAS AUGUSTUS MOZEE, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Thomas Augustus Mozee.
Q. Where do you live, Thomas? A. St. Joseph, Missouri.
Q. What do you do at St. Joseph? A. Team; Teamster.
Q. Did you ever live in Leavenworth, Kansas?
A. Yes, sir.
Q. How old are you? A. Twenty-eight years of age.
Q. Where were you born? A. In Platte City, Missouri.
Q. When did you go to Leavenworth, how old were you?
A. I don't know, very small.
Q. So *your* you don't remember?
A. No, sir, don't recollect.
Q. How old were you when you left Leavenworth?
A. Between the age of eight and ten.

Q. Who did you live with in Leavenworth?

A. Julia Doyle and a while with my mother.

Q. What was your mother's name?

A. Mary Rice at the time.

Q. What name did you go by in Leavenworth, what did they call you?

A. Well, they called me Thomas Doyle, Tom Doyle.

Q. Where did you get the name Mozee?

A. Well, that is my father's name.

Q. What did they call you? A. Tipp.

Q. That was a nickname you had? A. Yes, sir.

Q. Where did you—Did you play around with any other boys in Leavenworth while you were there?

A. Yes, sir, I played with quite a few.

Q. Where would you play?

A. Well, I played all over town.

Q. Did you ever play any around Ella Abbott's place over Abeles Drug Store?

A. Yes, sir, I played around there.

Q. Whom were you playing with, name some of the boys?

A. Well, I played with Tommy Owens, and Willie Owens, and a family—two little white boys named Dix. I disremember their first names now.

Q. Were the Owen boys white or colored? A. White.

Q. Where all did you and those boys play?

Mr. Hanford: Objected to on the ground that it is immaterial.

A. I have played all over, all around from the west end of town clean to the Missouri river.

Q. Did you ever play any around Crilly's Livery Barn on Seneca Street, between Second and Third?

A. Yes, sir.

Q. Who were you playing with around there?

A. Tommy Owens.

Q. What did Thomas' father do at that time?

A. He was a carriage driver.

Q. For whom? A. For Crilly.

Q. Would you and Tommy Owens be around Crilly's barn much? A. Once or twice a day, not very long at a time.

Q. Besides Tipp, what were you called? A. Tom.

Q. Did they ever call you by calling your whole name?

A. Only some of the children and my folks.

Mr. Hanford: Objected to as immaterial.

Q. What would they call you when they called you your own name?

A. When my folks would call me, they called me Tom Mozee.

Q. Your folks? A. Yes, sir.

Q. Who do you mean by your folks?

A. I mean my aunt and my cousins.

Q. Well, would other people around where you were playing call you your full name? A. No, sir, very seldom.

Q. Well, when they did, what would they call you?

A. I don't remember.

Q. Did they ever call you Tommy Doyle?

A. No, sir, not that I know of; just the boys and girls called me Tommy Doyle.

Q. The boys and girls would call you Tommy Doyle?

A. Yes.

Q. Where would you be when the boys and girls would call you Tommy Doyle? A. Out playing somewhere.

Q. You were called that around at the different places where you were playing?

Mr. Hanford: Objected to as immaterial.

A. Well, no, not at all the places, no.

Q. But at some of the places?

A. Just some of the places they would call me that, just some of the places when we would get excited over something they would say, "Why, Tommy Doyle."

Q. Was there any other boy that you played with by the name of Tommy? A. Yes, sir.

Q. Who? A. Besides a Tommy Owens?

Q. Yes? A. Tommy York, yes, sir.

Q. Was he a colored boy or white? A. A colored boy.

Q. How does his age compared to yours, which was the oldest, you or him?

A. I expect he was the little oldest, I expect.

Q. Which was the oldest, you or Tommy Owen?

A. I don't know. We were both about the same age.

Q. Was there any boy up on Seneca Street, that either lived around there or played around there by the name of Tommy, except you and Tommy Owen, and Tommy York?

Mr. Hanford: Objected to as incompetent, irrelevant, and immaterial.

A. Not that I know of.

Q. Did you play with all of the children who were around on Seneca Street between Second and Third? A. No, sir.

Mr. Hanford: Objected to as calling for a conclusion, and immaterial, and I move to strike if the answer was made before my objection.

Q. You knew all of the boys though, didn't you, and their names?

Mr. Hanford: Objected to as incompetent, and calling for a conclusion of the witness.

A. I do not.
Q. You didn't know all of the boys? A. No, sir.
Q. Was there any boy that lived at the Ella Abbott place, while you were there in Leavenworth?

Mr. Hanford: Objected to as incompetent, and it not being shown that he knew them.

Mr. Bell: The same objection. He has not shown that he knew Ella Abbott.

Mr. German: I withdraw that question.

Q. Where was Ella Abbott's place?
A. Why, the name sounds familiar, I don't know correct, but I think it was on Third and Cherokee.
Q. Where with reference to Abeles Drug Store? A. On Third and Cherokee.

Mr. Hanford: Objected to on the ground that it is leading, and I move to strike the answer. I have difficulty in making my objections prior to this witness' answers.

Q. You say Ella's place was up stairs or down stairs?

Mr. Hanford: Objected to as leading. The witness stated he didn't know.

A. The drug store was down stairs and the people were living up there over the drug store.
Q. Now, did you play any up stairs?

Mr. Hanford: Objected to——

A. No, sir.
Q. Was there a stairway leading up stairs to that place over the drug store?

Mr. Hanford: Objected to. The witness has not shown that he knows, and it is leading.

Mr. German: I object to counsel's manner. I protest against counsel's manner of objecting. The witness was asked to state whether there was and counsel injects a suggestion that it is not shown that the witness knows, for the purpose of suggestion of answers that he does not know.

Mr. Bell: We wish to make objection for the reason that it is leading and suggestive of the answer, and witness ought to be directed to describe the building.

A. Yes, sir, there was.

Q. Where was it?

A. On the west side of the building—on the east side of the building.

Q. Did you ever go up that stairway?

A. I played in the stairway.

Q. How was it arranged at the top of that stairway?

A. There was a porch, as far as I know.

Q. Were you ever on that porch? A. No, sir.

Q. But you did play up the stairway? A. Yes, sir.

Q. Was there any boys at—— No—— Did you know where the different boys that you played with lived?

A. Yes, sir.

Q. Was there any boy that you played with who lived up stairs over that drug store?

A. There was none as I knew of.

Q. Did you know any boy in town by the name of Commodore? A. No, sir.

Q. Did you know any boy by the name of Tommodore?

A. No, sir.

Q. You knew Mr. George Crilly, didn't you?

A. Well, as a boy.

Q. That Livery——

A. Just as a boy playing around would know some man, that is the only way I knew him.

Q. You knew the Mr. Crilly who ran that livery stable?

A. I knew Mr. Crilly, because they called him Mr. Crilly.

Q. What did Tom Owens call you?

Mr. Hanford: Objected to as immaterial.

A. He called me Tom.

Q. Would he call you that around the Crilly barn?

A. Yes, he called me that every place.

Q. What is your color, can you describe it?

A. So far as I know, but I can't describe my color only as yellow.

Q. Do you know what blood you have, what your blood is?

A. No, I know my mother is yellow and my father is yellow.

Q. You said they called you Tom Doyle, and some of the folks did around the different places you played, do you know whether anybody called you Tommy Doyle around the Crilly barn.

Mr. Hanford: Objected to as immaterial.

A. No, sir.

Q. You don't remember whether they did or not?

A. No, sir.

Mr. Hanford: I withdraw my objection.

Q. Do you recollect where it was that they did call you Tom Doyle, at what places that you played? A. No, sir.

Cross Examination by Mr. Hanford.

Q. You are a negro, are you not?

A. Yes, sir, I guess I am.

Q. Your hair is short, isn't it? A. Yes, sir.

Q. And kinky? A. Yes, sir.

Q. As far as the general appearance goes, you bear the appearance of any other member of the negro race?

A. Yes, sir.

Q. Where did you live in Leavenworth?

A. I lived several places.

Q. Name them?

A. I lived between Fourth—Fifth and Sixth on Choctaw, Fifth and Sixth on Walnut.

Q. Where else?

A. Fifth and Pottawatomie, Third and Chickapoo, Fourth and Chickapoo, Third and Dakota. That is as far as I remember the places that I lived at.

Q. Who did you live with?

A. My Aunt Julia Doyle, except on Choctaw.

Q. Who did you live with on Choctaw?

A. My mother, Mary Rice was her name then.

Q. You were a small boy when you lived in Leavenworth?

A. Yes, sir.

Q. All the time? A. Yes, sir.

Q. You left there when you were eight or nine years old?

A. Yes, sir.

Q. Now, in playing in Leavenworth, you played around where you lived in those different places?

A. Yes, sir, why I played all over town.

Q. As a child of that age, you played in the neighborhood where you lived, mostly, did you not?

A. No, sir, not much, only in the evenings.

Q. Only in the evenings? A. Yes, sir.

Q. Where did you play mostly?

A. Well, in the day time when I was playing, I played —run around the depot and down at the river and riding wagons.

Q. Riding wagons? A. Yes, sir.

Q. Was the depot and the river your usual place?

A. Well, around there as far as—— Up as far as Edward's place, down that way around the Foundry; that is the places where I played mostly.

Q. Where did you move from Leavenworth?
A. To St. Joseph.
Q. To St. Joe? A. Yes, sir.
Q. Who did you go with? A. I went by himself.
Q. Who did you live with in St. Joe?
A. I lived with my mother.
Q. With your mother? A. Yes, sir.
Q. Was she going to St. Joe—— Did she go to St. Joe before you did? A. Yes, sir.
Q. Did your aunt take you to her? A. No, sir.
Q. Did she send you? A. No, sir, my mother sent for me.
Q. Your mother sent for you? A. Yes, sir.
Q. Sent to Julia Doyle? A. To Julia Doyle.
Q. Sent to Julia Doyle? A. Yes, sir.
Q. And she sent you up to your mother? A. Yes, sir.
Q. When you played around that stair way who did you play with? A. I played with Tommy Owens and Willie Owens.
Q. Tommy Owens and Will Owens?
A. Two brothers, yes, sir.
Q. They were the only ones? A. Yes, sir.
Q. The only ones that you played with around there?
A. Yes, sir.

Cross Examination by Mr. Bell.

Q. Where did the Owens boys live?
A. They lived between Chickapoo and Kiowa on North Third.
Q. What relation are you to Nathan Doyle?
A. Nathan Doyle that lives here?
Q. No, sir, Nathan Doyle that lives in Leavenworth?
A. That is my uncle.
Q. Were you living in Leavenworth when he died?
A. Yes, sir.
Q. What? A. Yes, sir.
Q. How long did you live there after he died?
A. Why, I lived there quite a while, I don't remember how long.
Q. About how many years?
A. I can't tell you just exactly.
Q. Did you live with him a while?
A. I lived with him all the time.
Q. Did you live on Pottawatomie and Fourth?
A. And Fifth.
Q. An old frame house right on the southwest corner?
A. Yes, sir.
Q. Were you living there when you left Leavenworth?
A. No, sir

Q. Where did you live? A. North Third Street.
Q. Whose house did you live in up there?
A. I think it was the Kermeyer house.
Q. Which one, where abouts on Third?
A. It was on the east side of the street between Chickapoo and Kiowa.
Q. I believe you lived on Third and Chickapoo?
A. That was the house I have been speaking of.
Q. Whose house? A. Kermeyer's.
Q. Whose house did you live in at Fourth and Chickapoo?
A. I don't know.
Q. Whose house did you live in at Third and Decater?
A. I think it was O'Daff's place, I believe. I am not sure.
Q. That was away up on North Third? A. Yes, sir.
Q. You lived on Walnut between Fourth and Sixth?
A. Yes, sir.
Q. Who did you live with there?
A. Lived there with my aunt.
Q. What was her name? A. Doyle.
Q. Did you live in those old frame houses there?
A. They called it the Lima Block.
Q. That is where you lived with Tommy York?
A. No, sir.
Q. Did Tommy York and his mother live right around the corner?
A. No, sir, not as I know of, I played with Tommy York in North Leavenworth.
Q. You never played with Tommy York any place else except North Leavenworth? A. No, sir, we were school boys.
Q. He lived on——
A. I think he lived between Fourth and Fifth on Pawnee, I am not sure.
Q. Tommy York is a boy about forty years old now, isn't he?
A. No, sir, I don't think he is that old, Tommy York I am talking about is about my age, or maybe a year or two older.
Q. Have you got a sister in Leavenworth?
A. No, sir, I have no sisters at all, no sisters or brothers.

Redirect Examination by Mr. German.

Q. What was the name of your uncle, Doyle, his given name? A. That time?
Q. Yes, sir? A. Nathan.
Q. What kin was he to Julia Doyle?
A. My aunt's husband.

Q. Nathan Doyle and Julia Doyle were husband and wife? A. Yes, sir.

Q. Which one was kin to you by blood, Julia or Nathan?

A. Nathan.

Q. And you called Julia your aunt? A. Yes, sir.

Q. Do you know where Van Tyle's barn was, don't you, at the corner of Third and Seneca?

A. I don't know what the name of the barn was there, but I knew there was a barn on the southeast corner.

Q. On Third and Seneca?

A. Third and Seneca, yes, sir.

Q. Across the street from Crilly's barn and a little west?

A. Yes, sir.

Q. How many different times were you in that barn?

A. Very few.

Q. You were there sometime?

A. Yes, sir, playing around through there.

Recross Examination by Mr. Bell.

Q. You never lived in that neighborhood? A. No, sir.

Redirect Examination by Mr. German.

Q. You knew a boy named Walter Banks, didn't you?

A. Yes, sir, I heard that name, yes, sir.

Q. How did you—— What did you know him as?

A. Why, I——

Q. By what name did you know him?

A. Walter, as far as I know of.

Q. Where did he live?

A. I don't know exactly where he lived at, but I think he lived on Seneca.

Q. Between what two streets?

A. Between Second and Third.

Q. Was he older or younger than you?

A. He was older than I am.

Recross Examination by Mr. Bell.

Q. Say you were eight or nine years old when you left Leavenworth?

A. Between the age of eight and ten, yes, sir.

Q. And the time that you played on Seneca Street, you were living then in North Leavenworth? A. Yes, sir.

Q. And living from six from five to six or eight blocks from Seneca Stret? A. Yes, sir.

Q. And the majority of the boys—the colored boys that you played with lived up in the north part of town where you lived? A. Yes, sir.

Q. And to play on Seneca Street, they would have to come five or six blocks down there to play? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Was Seneca Street a part of North Leavenworth?
A. Yes, sir, there was two or three blocks the dividing line I believe.
Q. Two or three blocks north of the dividing line?
A. I guess so, I don't know what was the dividing line.
Q. Anyway, you do know Seneca Street was a part of North Leavenworth? A. Yes, sir.
Q. The main dividing line of property of the city, was the city line between North and South Leavenworth?
A. Yes, sir.
Q. To refresh your memory, wasn't Shawnee Street the dividing line? A. I don't know.

Recross Examination by Mr. Hanford.

Q. Where did you live in Platt City, what street?
A. There was no street. I lived in North Platt City.
Q. North Platt City? A. Yes, sir.
Q. What kind of a house? A. I don't know.
Q. You don't remember? A. No, sir.
Q. Did you say it was North Platt City or north of Platt City? A. Well, it is North Platt City.
Q. North part of the town? A. Yes, sir.
Q. What kind of a looking boy was Walter Banks?
A. A dark boy.
Q. A dark boy. How old was he? A. I don't know.
Q. How much older than you?
A. I don't know that either, he was older than I was.
Q. Did you play with him? A. No, sir.
Q. You played with boys your own age mostly?
A. Near, yes, sir.

Redirect Examination by Mr. German.

Q. As I understood you, you left Platt City when you were so little you don't remember? A. Yes, sir.

Cross Examination by Mr. Johnson.

Q. You say you played around Van Tyle's barn?
A. I was running around through there, didn't stop to play much, they didn't allow you in that barn.
Q. No boys were allowed around that barn at all?
A. Not as I know of.

Q. You remember any of the men that worked around that barn? A. No, sir.

Q. Don't you remember a one armed man who used to work there? A. No, sir, I don't.

Redirect Examination by Mr. German.

Q. You knew a one-armed man in Leavenworth, didn't you? A. A colored man?

Q. Yes?

A. Yes, sir, I disremember his name now, but I remember a one-armed man that washed windows around there.

Recross Examination by Mr. Johnson.

Q. Windows? A. Yes, sir, washed windows.

Q. Around Van Tyle's barn? A. No, sir, around town.

Q. What street did you see him washing on?

A. I seen him washing windows on Delaware.

Q. On Delaware Street? A. Yes, sir.

Q. He was a colored man, wasn't he? A. Yes, sir.

(Witness dismissed.)

Mr. German: Now, Mr. Pennick, I don't think we will have occasion to come back and take any more within our ten days, but I don't want to say we will not.

And thereupon, an adjournment is taken.

Mr. German: We offer the deposition of Angy Yoakum, appearing at page 821, and again at page 849 of Mr. Penick's transcript.

And thereupon ANGY YOAKUM being called upon on behalf of the United States, sworn and under oath, testified as follows:

Direct Examination by Mr. Allen.

Q. State your name, age, and place of residence.

A. Angy Yoakum; 705 Shawnee Street, Leavenworth, Kansas.

Q. Where were you born?

A. In the country, on Big Stranger.

Q. How long have you known Henry Carter?

A. Ever since I can remember.

Q. Is he older or younger than you? A. Older.
Q. About how much older?
A. Oh, I can't say because I don't know.
Q. What year were you born in?
A. Oh, I don't know about that; I know I am about 31 or 32—I never did think about that. I know I am 31 or 32; that is something I never think about.
Q. Are you married? A. No, sir.
Q. Who is your father and mother?
A. Maria and John Yoakum.
Q. Are they living? A. Yes, sir.
Q. They are witnesses in this case? A. Yes.
Q. About how old was H Carter when you first knew him?
A. Oh, I can't say, but he was a young man when I first knew him.
Q. Where was he when you first knew him to know that he was H Carter?
A. Well, at grandfather's, Henry Carter.
Q. Your mother had moved away from that country before your birth, had she?
A. Yes, sir, to my grandpa's place.
Q. Did you visit the Carter home after you grew up to be a good sized girl?
A. Oh, yes, I used to go out there lots of times.
Q. And later, did Henry visit your home?
A. Yes, sir, he used to come there and stay weeks and weeks at a time.
Q. When was that—about how many years ago?
A. Oh, that has been a good many years ago.
Q. Did you know about him going away from here?
A. Yes, sir.
Q. Where did he go? A. To Oklahoma.
Q. About how long did he stay down there?
A. Oh, he stayed down there quite a bit and he came back and brought his wife and they came there and stayed about two or three days, too, before they went out in the country.
Q. Do you know what his wife's name was?
A. Her name was Lelia, was all I know. He called her Lelia Shoemake—that is all I know.
Q. What was the color of her?
A. Oh, I don't remember.
Q. Do you remember how her eyes were?
A. Yes, sir, she was cross-eyed.
Q. Now, before Henry went to Oklahoma, about how long had you known him?

A. Oh, I had known all the time. He came there and stayed before he went to Oklahoma.

Q. Did he give you any pictures before he went to Oklahoma? A. Yes, sir.

Q. Have you those pictures now? A. Yes, sir.

Q. Let me see them, will you; just the first picture he gave you? A. This is one.

Q. I now hand you Government's Exhibit No. 24 and ask you what it is.

A. It is a picture of Henry Carter—H Carter.

Q. When was that picture taken?

A. Well, I can't say but I have had it for a long time.

Q. Who gave it to you? A. H Carter.

Q. About how long ago, did he give that to you?

A. Oh, it has been every bit of ten or fifteen years, anyway.

Q. In reference to the time when he went to Oklahoma, before he married his first wife, how long had you had that picture?

A. Oh, I had it—I can't say—I don't know—but I had it before that.

Mr. Allen: We offer Exhibit No. 24 in evidence.

Mr. Blakeney: We have no objection.

Q. I hand you Government's Exhibit No. 25 and ask you what it is. A. It is the picture of H Carter.

Q. When did he give you that with reference to the time he gave you the first picture introduced.

A. Oh, this was quite a bit afterwards.

Q. About how long afterwards?

A. Oh, I can't say just how long.

Q. That was given you by Henry Carter? A. Yes, sir.

Q. Was that before he went to Oklahoma the first time?

A. Yes, sir.

Mr. Allen: We offer Government's Exhibit No. 25 in evidence.

Q. I hand you Government's Exhibit No. 26 and ask you what it is. A. A picture of H Carter.

Q. Who gave you that picture? A. H Carter.

Q. When did he give it to you with reference to the time he went to Oklahoma the first time, and before he was married the first time?

A. He gave me this one a little bit after he gave me that one.

Q. You refer to Government's Exhibit 25? A. Yes, sir.

Q. Referring again to Government's Exhibit 26, how

long before he went to Oklahoma was it that he gave you that picture?

Mr. Blakeney: We object as leading and suggestive.

Q. Was it before he went to Oklahoma that he gave you this picture? A. Yes, sir.

Q. Was it before he was married the first time?

A. Yes, sir.

Q. About how long before?

A. Well, I don't know; I can't say.

Q. Was it Oklahoma or Indian Territory that he went to?

A. Down in the Territory somewhere—Oklahoma or Territory, I don't know which. I know he went to Oklahoma; I thought it was Oklahoma—down in the Territories.

Q. When he came back from that trip did he bring his wife with him? A. Yes, sir.

Q. Is that the time you have reference to?

A. Yes, sir, but he gave me that picture before he was ever married.

Mr. Allen: We offer in evidence Government's Exhibit 26.

Q. Do you know Viola Carter? A. Yes, sir, I do.

Q. Is she older or younger than you? A. She is older.

Q. How much older? A. Oh——

Mr. Blakeney: We object as asking for conclusion, and incompetent, irrelevant, and immaterial, and we move to strike out the preceding answer as asking for incompetent, evidence, and an improper conclusion.

Q. When did you first know her?

A. I have known her quite a bit. We used to go out in the country—out there and play together.

Q. Did you play with her when you were girls?

A. Yes, sir, when I would go out there sometimes, sure.

Q. Did she ever come here to see you?

A. Oh, she hasn't ever been in town but two or three times, I don't think—yes, sir, she has.

Q. Do you know who her mother is?

Mr. Blakeney: We object as asking for a conclusion; incompetent, irrelevant, and immaterial, seeking for hearsay evidence in an attempt to ask her if she was at the birth of the child.

Mr. Allen: I withdraw that.

Q. Did she ever tell you who her mother was?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial.

A. No, sir.

Q. Did you ever hear any members of the Carter family say who was the mother of Viola?

A. Who do you mean—who do you mean said so?

Q. Any of his sisters, or aunts, or uncles?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial; indefinite and hearsay.

Q. Or brothers?

A. Never heard her sisters or brothers say so.

Q. What is your relation to Viola and Henry Carter?

A. Cousins; sister's children.

Mr. Blakeney: We move to strike out that answer, sister's children, as incompetent, irrelevant, and immaterial.

Q. Have you all your life understood in the family who was the mother of Henry and Viola?

Mr. Blakeney: We object as asking for hearsay; incompetent, irrelevant, and immaterial, and indefinite.

A. Yes, sir.

Q. Who? A. Adis.

Mr. Blakeney: We object as incompetent, irrelemant, and immaterial, and indefinite, and asking for a hearsay statement; it doesn't show what family she is referring to that she had learned it.

Q. Answer——

Mr. Blakeney: I interposed my objection immediately upon the question being asked but the witness replied before I had filed it, and I ask that it be considered as previous to the answer, and that the answer be stricken out for the same reasons.

Q. Did you ever have any conversation with Henry with reference to his parentage? A. No, sir.

Q. Has he talked to you since this case came up?

A. Lately, you mean? How long?

Q. Yes, within the last two years. A. Oh, yes, sir.

Q. What, if anything has he said to you about it?

A. Oh, he came to our house the day before this case—two years ago—maybe one or two years ago——

Q. In Leavenworth?

A. I had been away and I got home, and he come by and

said, I got something to tell you all, and I said, what; he said, I heard who my mother was; and we said, who; and he said, Minnie Atkins; and so, I said, is that so; and he said, yes. So mamma said, there ain't no truth in that——

Mr. Blakeney: I object to what her mother said as not responsive, incompetent, hearsay, and immaterial.

Q. Go ahead.

A. And so he said, he said he saw the lady that just washed and dressed him, and my mother said, well, if you did, you saw something that wasn't so.

Mr. Blakeney: We object to what the mother said as incompetent, irrelevant, and immaterial.

Q. He was present at that time? A. Yes, sir.

Q. Go ahead and recite all the conversations at that time.

Mr. Blakeney: We object to any part of the conversations except that Carter made.

A. Answer?

Q. Yes.

A. That is what she told him, and he said, oh, you all don't know what you are talking about.

Mr. Blakeney: Who said that?

A. He did; and he said he saw the woman that washed and dressed him but he didn't call the lady's name.

Q. Was there anything else said?

A. Oh, yes, sir, and then another time he came by there and was showing me some kind of a paper, and said he had the lease on the land. Said he was Tommy Atkins.

Q. Did he say who told him that he was the son of Minnie Atkins?

A. He said that she did; said that she had owned him.

Q. She—who?

A. Minnie Atkins—that is what he said; that he saw his mother for the first time.

Q. When and where was this last conversation?

A. At 705 Shawnee.

Q. About what time?

A. Oh, it was about two or three——

Q. Did he tell you where he was born?

A. No, he didn't say.

Q. Did he tell you where Minnie had recognized him?

A. No, he didn't say that; he said he was getting letters from her all the time.

Mr. Stuart: We object to that because it was made outside and not in the presence of Minnie Atkins and being in any way self serving.

Cross Examination by Mr. Stuart.

Q. How long have you known this boy that you call H Carter? A. All my life.

Q. All your life. How old did you say you were?

A. 31 or 32.

Q. 31 or 32. You said you played with him when he was a boy? A. No, sir.

Q. You did not?

A. No, sir, I didn't; I said I went out there at times.

Q. Well, you went out there and saw him when you were out where?

A. Out to grandfather's. We played when we were out there.

Q. Well, that is what I mean—you didn't play with him all the time but you played with him a little? A. Yes, sir.

Q. Out at grandpa's? A. Yes.

Mr. Blakeney: We object to the leading method of counsel, as this is part of their case in chief and not cross examination.

Q. Well, you say you saw him out to your grandfather's?

A. Yes, sir.

Q. Will you state whether or not you were a large girl or a small girl when you first saw him.

A. Oh, I was a little bit of a kid.

Q. Little bit of a kid. Will you state whether or not you saw him out there when you were a little kid? A. Yes, sir.

Q. At your grandfather's?

A. Yes, sir, as far as I can remember.

Q. Is that the same boy whose photograph you have identified here with whom you played when you were a small child at your grandfather's? A. Yes, sir.

Q. The same boy? A. Yes, sir.

Q. You may state whether or not you have seen him from time to time since you were a small child.

A. Oh, I can't say that, because we lived in town.

Q. I don't mean all the time, but had you seen him from time to time, now and then? A. Yes, sir.

Q. Since you were a small child? A. Oh, yes, sir.

Q. And you now say recognize this boy as the same boy as you played with when you were a little child?

A. Why, yes, sir, that is the same picture—he gave it to me.

Q. Did you see him from time to time as he grew up?

A. Oh, yes, sir, at times; we were together out in the country—he never came to town.

Q. Did you lose entire sight of him—what I mean did he pass from your recollection and sight? A. No, sir.

Q. At any time? A. No, sir; no, sir.

Q. Whose daughter are you?

A. Maria and John Yoakum.

Q. Maria and John Yoakum? A. Yes, sir.

Q. Are you a sister of Mrs. Williams?

A. Yes, sir, I am the youngest girl—the baby girl.

Q. What do you say your name was? A. Angy Yoakum.

Q. You are the youngest of your father's children?

A. Yes, sir.

Q. This boy ever come to your sister's house?

A. To which one do you mean?

Q. H Carter. A. Which one? I got so many.

Q. The one Mrs. Williams. A. Oh, yes.

Q. That is where you saw him mostly, is it?

A. No, at our house—my own mother's house.

Q. Did you ever see him at your sister's house?

A. Oh, yes.

Q. Your sister Mrs. Williams? A. Oh, yes.

Q. Did you ever see him at the other sister's house?

A. Mrs. Green's?

Q. Yes.

A. Oh, yes, once or twice when I was out in the country.

Q. I will ask you whether or not he visited as he came in, the members of the family? A. Yes, sir.

Q. From time to time?

A. Yes, sir. He used to come to our house and stay week in and week out at the time.

Redirect Examination by Mr. Allen.

Q. You say that Henry brought a woman back with him after he had been down—when he returned from the Territory, and that he called her Lela Shumake? A. Yes, sir.

Q. Do you know what became of that woman?

A. Well, I know she went out into the country, and didn't stay out there very long and went back. Where she is now, I don't know.

Q. Did he later marry anyone else? A. Yes.

Q. Who did he marry?

A. A girl by the name of Ara Simpson. I think that is her name.

Q. Are they living together now?

A. I think so, I don't know.

Q. Were they, the last time that you knew of them?
A. Yes, sir.
Q. Where were they married?
A. Up here in Leavenworth, I think—I don't know.

Mr. Blakeney: We move to strike that out as to her thinking.

Recross Examination by Mr. Blakeney.

Q. Angy, you say that you are 30 or 31 years of age?
A. I said 31 or 32.
Q. 31 or 32 years of age. Have you been married?
A. I have.
Q. How often? A. Once.
Q. How long ago?
A. Oh, I don't know; I never paid any attention to it.
Q. Well, about how long ago, Angy? I am not trying to go into any unpleasant details at all.
A. Well, there ain't no unpleasant about it.
Q. Well, about how long ago?
A. Well, I don't know; that is something I never think about.
Q. You don't know when you were married?
A. I don't never think about it; that is one thing I never think about.
Q. Is your husband living or dead? A. I don't know.
Q. Are you divorced from him? A. I am.
Q. How long ago was you divorced?
A. Quite a little bit ago.
Q. Several years? A. Oh, yes, I think so.
Q. Ten or fifteen years? A. Oh, no, I don't think so.
Q. Several years anyhow?
A. Because I would be mighty old to be that old.
Q. Have you ever had any children?
A. No, I should say not.
Q. Where did you get your divorce? A. Kansas City.
Q. Kansas or Missouri?
A. Missouri, I think; I didn't get it at all.
Q. What was your husband's—he got it? A. Yes.
Q. What was your husband's name? A. Albert Filtager.
Q. Spell the name for us, please. A. The last part?
Q. Yes. A. F-e-l-d-h-a-g-e-r.
Q. Now, what have you done to make a living? Done physical labor?
A. No, I stay home with my mother and father.
Q. You do household work?
A. I do the work around the home, yes.
Q. Do the household work? A. Yes.

Q. You are practically the housekeeper of your home?
A. I am.
Q. Both your father and mother are old? A. Yes, sir.
Q. And you have done the hard work about the place the last ten years? A. Yes, sir.
Q. What is your weight now? A. I don't know.
Q. What was your weight the last time you weighed?

Mr. German: I object to that as incompetent, irrelevant and immaterial.

Q. What is your height?
A. I don't know; I never paid any attention to it.
Q. Well, you are what is called a small woman, aren't you? A. Yes.
Q. And you always have been a small child?
A. Oh, I used to be fat.
Q. Fat? A. Yes.
Q. Independent of that, you were always a little child and you grew up to be a short woman?
A. I wasn't tall but I was fat.
Q. You weren't tall but you were fat? A. Yes.
Q. What I am trying to get at *it* whether or not you have always been a small person when you were a child—small for your age—and when you were grown a small person?
A. Oh, no, I was fat.
Q. When you were fat, you think you were a large person?
A. Oh, I don't think nothing about it.
Q. Henry Carter has always been a large boy, hasn't he? A large man?
A. Oh, he is tall; I don't know about the largeness.
Q. Always been rather tall?
A. Been tall, but about his largeness, I can't say.
Q. Tall for his age?
A. I don't know about for his age—just tall.
Q. Viola has always been large for her age?
A. I don't know anything about that.
Q. She is a large woman isn't she?
A. I don't think she is so large, I might——
Q. Very much larger than you?
A. Yes, but that don't make her large; I don't call it large.
Q. She is a woman that would weigh 145 to 150 pounds, isn't she? A. I don't know.
Q. And about 5 feet, 5 or 6 inches high? A. I don't know.
Q. You are just scarcely over 5 feet, aren't you; do you know what your height is?
A. No, I never paid no attention to it.

Q. Angy, you are the girl, when we were having the examination of your mother that had possession of the Bible, aren't you? A. Yes, sir.

Q. The Bible has been in your custody and you had the care of it? A. You mean all the time?

Q. *We*, no, not all the time but the last few months you kept it locked up in your trunk?

A. No, I didn't keep it locked up; it is in my trunk. Mother had no other place to put it.

Q. You have taken care of it?

A. No, I ain't taken care of it. I put it away.

Q. When this examination is closed, will you go down and bring that Bible up? *Q.* If somebody will carry it.

Q. We will have somebody to carry it for you. I would like to ask you a question about that Bible.

A. Do you want it right away?

And thereupon the witness is excused until 9:30 o'clock A. M.

And thereupon adjournment of the taking of testimony herein is had until 9:30 o'clock A. M.

And thereafter and on February 10th, 1916, at 9:30 o'clock A. M., further testimony herein was taken as follows:

ANGY YOAKUM, being recalled, further testified as follows:

Recross Examination by Mr. Blakeney.

Q. Angy, during the recess, did you get a measurement of your height? A. No.

Q. Will you take your hat off, and let us place it in the record?

Mr. German: I object to that as incompetent, irrelevant, and immaterial, and improper cross examination.

The Examiner: Will you let the gentleman measure you?

A. Yes.

Q. You saw this measured, did you? A. I wasn't looking.

Q. Well, I want you to look. I will ask you to look and see if that shows about 61 and a quarter inches?

Mr. German: We will agree on what it shows but object to it as incompetent, irrelevant, and immaterial, and improper cross examination.

Mr. Blakeney: But agree that the measurement shows *16* and one-fourth inches?

Mr. German: Yes.

Redirect Examination by Mr. Allen.

Q. You stated on cross examination that you had been married and divorced? A. Yes, sir.

Q. Were you married before or after Henry Carter went to the Indian Territory? A. Before, I think.

Q. Were these pictures given to you before, or after you were married?

A. Well, I don't remember that; some may have been before and some afterwards.

Q. To refresh your memory, think about that and tell us whether or not you were married at the time those pictures were given to you.

Mr. Blakeney: We object as not proper redirect examination.

A. I know that one of them was.

Q. One was given to you after you were married?

A. No, sir, not at the same time—after I had married—that little one—one of the little ones.

Q. When was the big one given to you with reference to the time when you married?

Mr. Blakeney: We object as not proper redirect examination.

A. Oh, I can't say.

Q. Was the big picture given to you before or after you were married?

Mr. Blakeney: We object as repetition and as not proper redirect examination.

A. After.

Q. After you married but before Carter went to the Indian Territory? A. Yes, sir.

Mr. Blakeney: We object as not proper redirect.

Q. Were you *a* small, as a child, for your age, as you *you* grew up?

A. Why, I can't say that; I don't think so—I thought I was fat. I didn't think I was so little.

Q. You were not regarded as small for your age as you grew up?

Mr. Blakeney: We object to what she regarded as incompetent, irrelevant, and immaterial, and asking for an improper conclusion.

A. No, sir.

Q. You say that all of your life you played around at different times when you were a child, with Henry Carter?

A. No, sir, I didn't say that—I said——

Mr. Blakeney: We object as not proper redirect examination. The question was not referred to in cross examination.

Q. You say that you played with him as a child when you went out there during your childhood?

Mr. Blakeney: We object as not proper redirect; leading and suggestive.

A. I played with him when I used to go out there.

Q. Was he older or younger than you?

Mr. Blakeney: We object as asking for a conclusion, an opinion of the witness and object to the competency of the witness.

A. Older.

Q. Do you know? A. Older.

Mr. Blakeney: And not proper redirect.

Q. Was Viola older or younger than you?

Mr. Blakeney: We object now, as not proper redirect examination, no reference being made to Viola in any cross examination. Her name was not called, and we further object as incompetent, irrelevant, and immaterial, and the competency of the witness, and the question seeks to draw out a conclusion.

Mr. Allen: We make this question a part of our direct examination.

Mr. Blakeney: We object.

Q. Do you know whether or not Viola was older or younger than you?

Mr. Blakeney: We object as incompetent, irrelevant and immaterial, and object as not proper redirect.

Q. Just answer that yes or no. A. She was older.

Mr. Blakeney: We move to strike the answer as not responsive.

Q. Do you know whether she was older?

Mr. Blakeney: I want to object to two counsel examining the witness if both counsel insist in going over the same parts of the evidence.

Q. Just answer that yes or no—do you know or not.
A. Yes.
Q. Was she older or younger than you?

Mr. Blakeney: We object as incompetent, irrelevant, and immaterial, and to the competency of the witness, and improper redirect.

A. Older.

Recross Examination by Mr. Blakeney.

Q. You didn't know the age of either Henry Carter or Viola Carter—you are judging of their ages by their size and appearance?
A. No, I am not because I know they are older than me.
Q. Well, you know that because of their appearances?
A. No.
Q. Because they was born before I was.
Q. Were you there when they were born?
A. No, I couldn't have been—that is impossible.
Q. Then you don't know that they were born before you, except that they appeared when you played with them?
A. No, they always said they were older than I was and I knew they were older.
Q. Your mother always said so?
A. Mother and grandmother, and father, too.
Q. They would tell you how old each one of you were?
A. No, they didn't say that.

Witness dismissed.

Mr. German: We offer the deposition of Mrs. Ada Van Duzee, taken before Mr. Penick, appearing in his transcript beginning at page 3046.

And thereupon Mrs. ADA ARMERLY VAN DUZEE being called on behalf of the United States, sworn and under oath testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name?

A. Mrs. Ada Armerly Van Duzee.

Q. Mrs. Van Duzee, how long have you lived in Leavenworth?

A. 32 years, I believe; '84 and '86—1916 now—32 years.

Q. When did you move to Leavenworth?

A. In the spring of 1884.

A. I came here in April of 1884.

Q. Where did you come to Leavenworth from?

A. Minneapolis, Minn.

Q. What was the occasion of your coming to Leavenworth?

A. My husband had a position with the Great Western Manufacturing Company.

Q. When you moved to Leavenworth, where did you first live?

A. With Mrs. Sawyers. I first went to the Planters House; stayed there probably a week, and took rooms on the Esplanade, corner of *Seventh* and the North Esplanade.

Q. How long did you continue to live at Mrs. Sawyer's?

A. Well, I can't just remember. I took Mrs. Neely's furnished house; she leased, and I took her furnished house and kept it until October. I rented it for four months, so I must have gone in there sometime in July or June.

Q. And up until the time that you took this furnished house, you lived at Mrs. Sawyer's? A. Yes.

Q. Then, in October, when you gave up this furnished house, where did you go?

A. I went to Mrs. Roberts, on the corner of Ottawa and Fifth, over Mr. Cool's bakery, new bakery.

Q. How long did you live there?

A. Mrs. Roberts bought a place on Pottawatomie street, between Third and Fourth, and I went there with her—I can't tell you absolutely what month it was, but it was in the spring.

Q. Then, you stayed at this place, over the bakery, was it? A. Through the winter.

Q. Through the winter, until the spring of '85? A. Yes.

Q. Then how long did you stay at this home on Pottawatomie?

A. Until I moved into this house on Second street; I can't tell you what month that was.

Q. Was that during the same spring?

A. Yes, of that year.

Q. Where on Second street, did you move to?

A. The second house from the corner—it is on an alley—the corner house was on an alley, and I took the second one, and Mr. Peck was living in the corner one at that time.

Q. What direction was that from 217 Seneca street?

A. Well, it was east.

Q. How far were you in your new location from 217 Seneca street?

A. Well, I was on Second and they were on Seneca. They were near the corner of Third and I was right on Second street.

Q. Did you know who lived in the frame house across the street from Crilly's barn?

A. I did not; I knew nothing about the people who lived on Seneca street.

Q. Did you know of a family living there in that community across the street from Crilly's barn, who were running a house of ill-fame?

A. Well, I knew there was such people, who occupied those premises but I paid no attention to them whatever.

Q. What attracted your attention to that house and the character living therein?

Mr. Cruce: We object; she said she didn't pay any attention to them.

A. Well, they were in the rear of me, and of course, I didn't spend much time in the rear of my house, so I couldn't tell you anything about which house it was—that is, positively—I can't tell positively which house it was.

Q. Which way were they from the Abernathy's lumber yard?

A. Well, I suppose if they were across from Crilly's barn—the lumber yard, you mean?

Q. Yes.

A. Well, the lumber yard was between they and me—would be, if that was the situation.

Q. Well, do you know how the situation was? Did you see them there?

A. I suppose I did; I can't swear positive I did. This woman went by my place—those characters went by my place and that is all I know about that. I didn't interest myself.

Q. Did you know that they were living there in that community, though?

A. Well, I hear they did; I couldn't positively swear to it.

Q. Where they white or colored people?

A. Well, the women who passed by my house and made themselves conspicuous were white women.

Q. Did you ever see them sitting around the yard at the house where they lived?

A. I don't think I did; I didn't even go by that street. When I went down town, I went Shawnee street.

Q. Were any colored people living on that street?
A. Not on Second street where I lived.
Q. Was any living back of you there? A. I don't know.
Q. Do you know whether or not there were any protests by any of the neighbors concerning the conduct of those women?

A. Well, I know they talked it over—we people who lived in that block—that it was very obnoxious for them going by; making offensive remarks, and we all had small children and we didn't think the surrounding were very——

Mr. Blakeney: I move to strike out what the neighbors talked about as hearsay, incompetent, irrelevant, and immaterial.

Q. Where did you understand at that time that they lived?

Mr. Blakeney: Objected to as incompetent, and asking for hearsay.

A. Well, I——

Mr. Hanford: The same objection.

A. I don't have to answer?
Q. Yes.
A. I don't know anything about legal technicalities; you will have to coach me. Well, it seems to me, that I heard people say that they lived near Van Tuyl's barn, but I can't tell you positively that they lived there because as I said, I paid no attention to them and I didn't interest myself particularly in them.
Q. How long did they continue to live in that community?
A. I can't tell you.

Mr. Blakeney: We object. The witness shows that she had no knowledge.

A. I didn't pay any attention to them, I told you.
Q. I know you didn't visit them.
A. I know it, but I was a very young woman at the time and I had always lived in large cities and I didn't pay any attention to that class of people; never have, in my life.
Q. You were attracted, though, by these characters in that community?

Mr. Cruce: We object as leading.

A. When they passed by our house and made the remarks, then I knew that these people lived in that vicinity.

Mr. Blakeney: I object to counsel cross examining his witness and trying to make the witness testify to characters that she shows she knows nothing about.

Witness dismissed.

Mr. German: We offer the deposition of Joseph Voorhees, taken before Mr. Penick, appearing in his transcript beginning at page 3038.

And thereupon, JOSEPH E. VOORHEES, being called on behalf of the United States, sworn, and under oath, testified as follows:

Direct Examination by Mr. German.

Q. State your name. A. Joseph E. Voorhees.
Q. What age are you, Mr. Voorhees? A. 29.
Q. You live in Leavenworth? A. Yes, sir.
Q. What official position, if any, do you hold?
A. County clerk, Leavenworth County.
Q. How long have you held that position?
A. Elected in 1914, held it about 18 months.
Q. Mr. Voorhees, is there a record kept of appointment of deputy sheriffs of this county, and which it can be told the time of the entry upon the performance of duty, and the time of the end of the term of a deputy sheriff?

Mr. Hanford: Objected to as calling for a conclusion; irrelevant, and immaterial.

Q. We have an election record—record of the election of the various officers in the county, and we have a record that you speak of, of the election of the sheriff—the sheriff makes their appointments.
Q. Of deputies?
A. Yes, sir, appointment of deputy sheriffs. These appointments are made on blank form—that is, I hereby appoint John Jones a deputy sheriff, etc., without pay, it usually says; these appointments are filled in and kept on books. We had a fire in 1910, and all the record- were burned.
Q. Prior to that? A. Yes, sir, of deputy appointments.
Q. What about the records pertaining to the salaries of deputy sheriffs?
A. Well, as I said, the salary of deputy—appointed by sheriff—they are paid by the sheriff, himself, and of course, no record is kept in the office. For instance, if a deputy appointed by a sheriff, the deputy you speak of, I suppose, if he

went out on a certain case, he was to be paid by the sheriff on that particular case.

Q. Where are the records of the sheriff, pertaining to his deputies for the years 1887, 1888 and '89?

A. They burned up.

Mr. Hanford: I move to strike the testimony of this witness as irrelevant, and immaterial, and incompetent, and move to quash the deposition.

Cross Examination by Mr. Blakeney.

Q. Why do you say it was burned up? You don't know anything about whether it had been destroyed in 1887 or not, do you? A. Well, all records were burned.

Q. What you mean is, all records were burned?

A. All records were burned and they were supposed to be—the file in my office. That is, all records of that are kept in my office.

Q. All records since 1910 are kept in your office?

A. Yes, and all records of appointments previous to that time were supposed to be kept in the county clerk's office.

Q. That is, if they were kept, they were kept in the county clerk's office? A. Yes, sir.

Q. That is, where the records were made in '87—you don't know anything about it?

A. Yes, sir, the records were made in '87.

Q. You knew it personally?

A. Yes, sir, we have certain boxes to put appointments in, and when that box gets full, we wrap them and place them in a file outside of the vault.

Q. That is the way you do now?

A. That is the way they did then—because we found records back to '89, previous to that time—boxes had been filed.

Q. Well, evidently you didn't find them.

A. Didn't find them?

Q. But you merely assume that if they were kept, they were kept that way? A. Yes, sir, that is all.

Witness dismissed.

Mr. German: Now, in this connection, I would like to see if we can't have an understanding, I don't know that it is necessary for us to reintroduce the deposition and witnesses which we put on as a part of our case in chief, relating to Lilly White, relating to Lilly White's occupancy of this house at 217 Seneca Street from the summer '84 until the fall of '85. Also the depositions of

some twenty-five to thirty witnesses who were occupants of the home at that place with Granny Letcher, and who testified to the effect that there was no such person as Thomas Atkins there, and running clear through from about 1884 up to about 1890, no such person as Thomas Atkins living with her. We offered all those depositions in support of our proposition that they showed that the defendant had fabricated a case.

* * * * * * * *

The Court: Were those twenty-five or such number of depositions that you refer to, introduced at the time you referred to for the limited purpose, did I exclude them?

Mr. German: No, sir, Your Honor received them.

The Court: Oh, well, they are in the record and without any limit.

Mr. German: That is true, except I just wanted an understanding that they would be treated that way. If that is the case we would have no occasion to reoffer them.

The Court: If I understand you then, they were offered—aside from the three or four that were introduced for the limited purpose, the others were introduced as a part of your case in chief?

Mr. German: Yes, but they would have found no place except for the three or four for the limited purpose.

The Court: But they are in the record for all purposes.

Mr. German: Yes, sir, that is what we want to understand.

The Court: As to introducing them again in rebuttal I see no reason why the record should be encumbered.

Mr. German: Now, there seems to have been a little confusion in the course of the trial as to the deposition of Sam Nash and Walter Banks. We didn't vouch for the integrity of the statements made in their depositions. Those two depositions, you know, were taken in October, 1914, before any Government case arose and they are in for the limited purpose that we have just been talking about.

The Court: I had the impression that the depositions of Sam Nash and Walter Banks, which were introduced by you, were depositions taken by the defendants in this very case.

Mr. German: No, Your Honor. They were depositions taken by these defendants in the state court case. Now, you see these two witnesses, Walter Banks and Sam Nash, they are in this district and have been throughout this trial. They were in the court house and around the City of Muskogee here and were in the court house possibly at the very time we offered their depositions for that limited purpose. They have never been produced as witnesses. Now, we understand that *thos* two depositions, and likewise Dennis Jones and Rube Smith, are to be considered only upon the proposition as to whether or not the defendants fabricated a case; and if it should be found that the defendants fabricated a case, then of course it would follow that what those four persons testified to is not true. Now, if it should be found that the defendants did not fabricate a case, then the testimony of those four persons would not be found to be false, but the testimony of Sam Nash, Walter Banks, and Rube Smith, and I refer especially to Sam Nash and Walter Banks because they were in the jurisdiction of this court, now they would simply be discarded and wouldn't be considered as evidence in this case on the question as to whether Thomas Atkins was born at Granny Letcher's and lived there.

The Court: Well, Mr. German, I never have I guess entirely grasped your theory with regard to the fabrication of this case which you seem to disassociate from the other questions in the case as to whether there ever was a Thomas Atkins in existence. * * * If I reach the conclusion from all the evidence in the case that there was a Thomas Atkins, or that the evidence is not sufficiently clear to make a finding to the contrary, then what difference does it make whether the defendants attempted to fabricate a case or not?

Mr. German: Your Honor, but Your Honor couldn't consider the testimony of the deposition of Sam Nash and Walter Banks, which we introduced as substantive evidence upon the question as to whether or not Thomas existed, that is the point we are making. * * *

The Court: Well, let me see; it will be a part of your argument or brief in the case. You have submitted these two depositions for the limited purposes which you express; you contend that the Court may not consider them for any other purpose, but do want them and purpose to leave them in the record for that purpose.

Mr. German: That limited purpose.

The Court: The defendant Page probably does not agree with you that they are in for that limited purpose. He has probably conceived that the Court must examine them for every purpose, and therefore has not put them on the stand. It is probably unnecessary for me to determine that question now. You gentlemen take opposite positions on that question. You are trying the case, you are putting the record up to the Court. If counsel for the defendant Page see fit to take the stand that the Court must examine it for all purposes, and you take the opposite position, the Court takes the case as it is presented.

* * * * * * * *

Mr. Stuart: I am perfectly willing to rest on my views of the matter.

The Court: I haven't reached a conclusion on that matter yet; but I am letting you gentlemen take the different horns of the dilemma, and stand on it, and I will take the case when it comes to me.

Mr. German: Now, Your Honor, in case they are not going to be treated for the limited purpose, we will want to withdraw them; and we have authorities on the matter. * * * I don't know whether the Court would like to bother with it at this time, but unless they are going to be treated and considered for that limited purpose, then we desire to withdraw them.

Mr. Stuart: If Your Honor please, we will not consent to that. The gentleman can't make his case in chief and allow us to put on our evidence and these other defendants, and then say they will withdraw part of the case.

The Court: Well, you may read into the record your motion for leave to withdraw and I will take that together with other questions in the case, reserve ruling, and make that ruling together with other rulings in the case.

Mr. Allen: Here, Your Honor, is why it is necessary for us to determine this question before this case is closed. We, upon the theory of fabrication only, offered the direct evidence, the evidence solicited by counsel for the Page interests, upon the direct examination of these witnesses. Now, of course, if those depositions are to go in for all purposes, we conceive that they should be treated or would be treated, that they should be treated or would be treated for all purposes, then we might de-

sire to introduce the cross examination of those witnesses.

The Court: Well, wouldn't——

Mr. Allen: We think it is clear inasmuch as they are in the jurisdiction of the Court that the depositions would be incompetent for any purpose——

Mr. Hanford: We don't object to the testimony on that ground, Your Honor.

Mr. German: You did as to one and to the other you did not.

The Court: I don't remember that there was any objections to those depositions but there was an objection to their going in for the limited purpose.

Mr. Hanford: We objected to the whole depositions, in going in, Your Honor, and it was specifically understood that the whole deposition would go in, cross as well as direct.

Mr. German: No, this was the understanding: that you would have the privilege of introducing the cross if you desired, so far as it related to the direct which we had introduced. Of course we would not deliberately—I started to say, would not stullify ourselves by introducing testimony deliberately which we have read that would support a case which we conceive to be a fabrication. Now, we introduce it for the limited purpose, under the authorities, and they all agree, numerous authorities, for that sole purpose, of proving the fabrication, and we limited it when we introduced it and we have limited it in numerous references made to it further on, and so far as I am personally concerned I am willing to let it stand, because I know what the law is on the subject; but at the suggestion of my associates, Your Honor, unless it is understood that they are to be used for that limited purpose, we desire to withdraw them.

Mr. Stuart: I desire to say now, Your Honor, that we have made examination of this question and we are satisfied that they cannot be introduced for the limited purpose; so we agree now, if we are wrong, we lose; if they are wrong, they lose.

Mr. Cobb: Objection was made to those depositions according to my memory, and they were introduced over objections of the defendants in the case as being incompetent, irrelevant and immaterial.

The Court: Well, the record will show. There has

been so much that I can't carry it all in my mind; they are in the case.

Mr. Cobb: If there should be any question, I desire the record to show that the Carter interest object to them as incompetent, irrelevant, and immaterial, and hearsay.

The Court: Have you anything further?

Mr. German: Yes, Your Honor.

And thereupon, CHARLES R. WARREN, a witness produced on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age and postoffice address.

A. Charles R. Warren, Leavenworth, Kansas, 305 Seneca.

Q. I understand your name is Charles R. Warren, you live at 305 Seneca street, Leavenworth, Kansas, is that right?

A. Yes, sir.

Q. How long have you lived at Leavenworth?

A. All my life.

Q. All your life? A. Yes, sir.

Q. What year were you born in? A. 1890.

Q. Where did you live in the city prior to the time that [] moved to 309 Seneca street?

A. Well, I lived at—born at 202 Shawnee.

Q. How far is that from 309 Seneca?

A. A little better than a block; a couple of blocks.

Q. Where did you move from to Shawnee, 202 Shawnee?

A. Well, I was a baby then; I guess I moved out on Broadway some place; I don't remember that.

Q. When you were a baby you moved to 202 Seneca and lived there ever since?

A. Born at 202 Seneca and lived at 201 Shawnee.

Q. Now, these three places, Cherokee, Shawnee and Seneca, how far apart, how far is the greatest distance between them? A. Oh, about three blocks.

Q. When you were six or seven years old, do you recall those times? A. Yes, sir.

Q. You remember where you played and who you played with in those days? A. Yes, sir.

Q. Now, just name to the Court, some of those boys you played with around in those days.

A. Well, I played with the Adams boys; Alva Adams and Ray Adams; Conrad boys, and the Endres boys.

Q. What Endres?

A. Endres, the youngest one is Earnest, I believe.

Q. Alright; name some more of them.

Q. And some colored boys by the name of Clays.

Q. Clay? A. Yes, sir.

Q. Now, who else? Do you know a man named Brewster?

A. Yes, sir.

Q. Did you know a boy named Brewster?

A. I knew Stewert Brewster, but he was a little older than me.

Q. Did he play around there with that bunch sometimes?

A. I can't swear whether he did or not.

Q. Well, did you know a boy name of Hunt? A. Yes, sir.

Q. Where did he live? A. Olive street.

Q. What was his name?

A. I can't call his name; one boy got drowned and one was named Al, and another one I don't remember his name.

Q. Lived on Olive? A. Yes, sir.

Q. How far is that from the place you boys played?

A. Five or six blocks.

Q. Where did most of the boys come from that you played with around that community—where did they live, I mean?

A. Most of them lived around there; Seneca to Cherokee, and two or three families lived at Second and Olive and Second and Market.

Q. Do you remember a young fellow named Higgins at that time? A. Yes, sir.

Q. What was he doing back there the first time you remember playing?

A. He was teamster; I think he drove a team for Bittman and Todd, in those days—grocery.

Q. Did you boys ever have anything to do with him in any way?

A. No, sir, not much; he was quite a little older than me.

Q. Older? A. Yes, sir.

Q. Was he acquainted with Alva Adams?

A. Yes, sir, a brother-in-law.

Q. Did you boys steal any rides on the wagon, do you remember? A. Yes, sir.

Q. Do you remember the names of any of the boys that you remember that lived in that community?

A. Some boys lived at 224 Shawnee; I think that is the number, by the name of Maduska.

Q. Maduska?

A. Yes, sir; they are all dead but one, I think.

Q. All dead but one? *A.* Now, did you know Tommy York? A. Yes, sir.

Mr. Stuart: Now, Your Honor, I object to this; he

ought to be made to state the names of those boys. You have already suggested the names, we object to your suggestion. Let him remember if he can.

Mr. Pinson: Alright; I thought he mentioned the names of all the boys he remembered.

The Court: He has answered that he remembers Tommy York. Now, let him as suggested, name the boys right around there; I think I could do it if I were on the witness stand.

Q. Alright; name any other boys who you remember who played with you? A. Well, I know Tommy York.

Q. Well, name any other that you played with.

A. Well, a lots more colored people lived around that neighborhood; I can't recall the names.

The Court: You have mentioned all now, that you have in mind, have you?

A. No, sir, I know the Holmes boys, all of them, and also York.

Q. You remember any others?

The Court: Well, now, you may suggest if there has been testimony here of which this is rebuttal about certain boys being there, you may ask him in regard to their names.

Mr. Pinson: I can probably shorten it this way, Your Honor.

Q. How long did you play around there with that group of boys, or with any group of boys around in that community?

A. Well, ever since I was old enough to run around, from six to seven years old, pretty [] to 1893, about.

Q. You mean 1903? A. Yes, sir, 1903.

Q. Then, for a period of seven or eight years, you played around there with those boys in that neighborhood?

A. Yes, sir.

Q. Now, where did you boys play mostly?

A. Well, we played mostly in back of one hundred and something—Second and Cherokee, Conrads used to live there in those days and there was an empty lot in back of it.

Q. Now, Warren, was your brother in that crowd?

A. Yes, sir.

Q. What is his name?

A. Well, one is named Willam; there is another brother that I ain't never heard from.

Q. The one named William was here? A. Yes, sir.

Q. You heard he was here. Have you seen him or talked to him since you were subpoenaed as a witness?

A. Never seen him.

Q. In your playing around there, did you ever go up to Crilley's barn? A. Yes, sir.

Q. You know where it is? A. Yes, sir.

Q. Where is it? A. Between Second and Third, on Seneca.

Q. Did you boys play around there? A. Yes, sir.

Q. Did you know the Crilleys—the family of Crilleys?

A. Yes, sir, I knowed—yes, sir, I knowed the boy and girl; the girl, I guess, she is here.

Q. What was the age of the younger members of the Crilley family with respect to you, older or younger?

A. One boy I know, he is an undertaker, he is quite older than me, but the girl is younger, I expect.

Q. I am speaking of just the boys. Do you know any other members of the Crilley family; know the old man?

A. I knew the father, yes.

Q. Now, did you play around Van Tuyl's barn?

A. Yes, sir.

Q. In the years that you played there, from the time that you were six years up until you were twelve or thirteen, did you ever play with any boy that was an Indian? A. No, sir.

Q. Did you ever play with any boys that looked like he was part Indian? A. No, sir.

Q. Did you know a boy during those years and in that community named Tommy Atkins? A. No.

Q. Did you ever hear of such a boy? A. No, sir.

Q. Did you know a boy named Indian Tommy?

A. No, sir.

Q. Commodore? A. No, sir.

Q. Tommodore? A. No, sir.

Q. Was there any boy who played with you that you boys called Trailer? A. No, sir.

Q. Did you know any boy that was named Trailer?

A. No, sir.

Q. What did you boys play down in that community mostly?

A. Well, we played pretty near everything that boys could play, such as war, and run sheep run, and all such games like that.

The Court: What did you say you played? War?

A. Well, all such games as boys played, like run sheep run and——

Q. Just regular boys' games? A. Yes, sir.

Q. You boys were in school in those days? Were you in school?

A. Yes, I started to school I reckon when I was about six years old.

Q. When did you play these games you are talking about, up and down the streets?

A. After school, after four o'clock, and Saturdays, I reckon.

Q. Did you ever know the house that sits across the street from Crilley's barn, right up flush with the street—a two-story frame house there? A. What?

Q. Did you ever know of a two story frame house that stood across the street from Crilley's barn, opposite side of Seneca street; a two story frame house?

A. I don't know that I did.

Q. What did you say?

A. I don't remember whether I did or not.

Q. Do you remember a stone house over there?

A. Yes, sir, I remember the stone house.

Q. What kind of house was next to it?

Mr. Stuart: He has not answered whether there was or not.

Mr. Pinson: I understood him to answer; the judge probably didn't hear him.

Q. Do you remember a stone house there? A. Yes, sir.

Mr. Pinson: He had answered that.

Q. Now, where was that stone house with reference to Seneca street?

A. Well, it set, used to set right where Abernathy's got a dry kil*n* there now; couple of lots from Van Tuyl's barn.

Q. Now, how close was that to Second or Third?

A. Well, it is closer to Third.

Q. Closer to Third? A. Yes, sir.

Q. Now, next to that house, was there any house over there?

A. Well, I can't say; used to be little house- all along in the alley, in them days.

Q. In the *eye*? A. Yes, sir.

Q. I am talking about on Seneca Street, on the street itself, do you recall the description of a house next to a stone house?

A. No, I don't. The stone house and Van *Tyle* house I remember on that street.

Q. But you don't recall the description of the other houses? A. No, sir.

Q. Now, along in that particular neighborhood, do you know whether there were any boys, younger boys?

A. No, sir.

Q. Well, were there any boys somewhat older than yourself? A. Yes, sir.

Q. Mention the names of some of those boys that lived right in there close?

A. Well, I just recall one, I guess quite a lot older than me, that is Sam Nash, one-armed negro fellow.

Q. Sam Nash? A. Yes, sir.

Q. He was a one-armed negro boy? A. Yes, sir.

Q. What is his age with reference to yours?

A. I judge him around forty-five.

Q. Now, you mean, or then? A. Now.

Q. And your age at present is twenty-seven?

A. Twenty-seven.

Q. Now, did you know any other boys in that neighborhood there? A. No, sir.

Q. Do you know where Sam Nash lived?

A. No, I just used to see him around that corner sometimes.

Q. You don't know what house he lived in? A. No.

Q. Did you know any younger boys than Sam Nash that lived around that neighborhood? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Your brother testified down here the other day, didn't he? A. Yes, sir.

Q. His name was Warren? A. Yes, sir.

Q. He is the one that is under eight different bonds to go back, isn't he?

Mr. Pinson: That is objected to as incompetent.

A. I don't know——

The Court: That appears in the record.

Q. How many bonds are you under?

A. Oh, I couldn't tell about Kansas, I might be under a thousand there.

Q. You say that because you think you ought to be under a thousand?

A. No, I shouldn't be under none I don't think.

Q. Now, you were born in 1890, were you? A. Yes, sir.

Q. 1890, and what boys were your age when you played there, tell me some that were your age?

A. Well, the Adams boy, Alva Adams' brother Ray.

Q. How much younger was he than Alva?

A. Well, he was about my age.

Q. And how old are you now? A. Twenty-seven.

Q. Twenty-seven years old? A. Yes, sir.

Q. And how far back can you remember?

A. Well, I can remember back when I was about seven years old.

Q. Then, you were born in 1890? A. 1890.

Q. And you can't remember back any further than about 1897? A. When I was seven years old.

Q. That would make it 1897 and then of course you don't remember anything in between 1885 and 1897, twelve years, couldn't remember that, could you?

A. Well, I might, I don't know.

Q. Did you ever know a boy there called Sheeney Paul?

A. I don't think I did, I wouldn't say I did.

Q. You think you did? A. Yes.

Q. He was quite a boy there?

A. Well, I don't know. There was lots of fellows around there I can recall when I think about it.

Q. Do you remember Tom Livingston, a red-headed little fellow? A. No, sir.

Q. Don't remember him? A. No, sir.

Q. Do you remember Swipe? A. Yes, sir.

Q. How much older was he than you?

A. Swipe Smith, he is quite a little older than me.

Q. You didn't play with Swipe, he is too old?

A. Well, I run around with all of them.

Q. The truth of it is you played with the younger boys?

A. No, sir. I run around with all of them.

Q. When they were ten and you were five you tagged after them? A. Well, yes, when I was seven.

Q. When you were seven you played with twelve-year-old boys? A. Yes, sir.

Q. You never heard of Granny Letcher, did you, never heard of her? A. Not until——

Q. This case came up? A. I read it in the papers.

Redirect Examination by Mr. Pinson.

Q. The trouble you have had up there is on account of whiskey, isn't it? A. Yes, sir.

(Witness dismissed.)

And thereupon, FRED S. COOK, was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. What is your name? A. Fred S. Cook.
Q. Where do you live? A. Muskogee, Oklahoma.
Q. What is your age, Mr. Cook? A. Forty-two.
Q. Were you formerly in the Government service?
A. Yes, sir.
Q. What position do you occupy at this time?
A. Employee of the Prairie Oil & Gas Company.
Q. When were you in the Government service?
A. Resigned 31st day of July, 1915.
Q. Up to that time how long had you been in the service?
A. About nine years.
Q. Mr. Cook, immediately prior to your severance of your relation with the Government, you were detailed to investigate the Atkins case? A. Yes, sir.
Q. Do you remember during the month of March, I believe it was 1915, having a conversation at which I was present with Dr. Carpenter at San Diego?
A. I remember the conversation, I don't know the date.
Q. Did you ever have more than one conversation?
A. No, sir.
Q. That was the time that I was present? A. Yes, sir.
Q. Did Dr. Carpenter at that time say that he attended Minnie Atkins at the birth of Robert Lee Peterkin and that that was the first child that she gave birth to?

Mr. Hanford: Objected to as leading, Your Honor.

The Court: I assume that this predicate was laid in these words.

Q. Did he say that or that in substance?
A. He didn't say Minnie Atkins, he knew her as Peterkin. He attended her at a place owned I believe by a woman by the name of Wood; and in the conversation the question was asked if this was her first child; he said so far as he could remember it was, but that his records would bear him out whichever way it was; his records were at Leavenworth, Kansas.
Q. Did either of us at that time, during that conversation, or at any time, intimate to him that we wanted him to testify that this was the first child born to Minnie Peterkin?
A. No, sir.
Q. Was any suggestion made to him at that time that we believed that this was her first child? A. No, sir.

Mr. Stuart: Your Honor, I haven't heard any such claim in this case.

The Court: There was some interrogation of this doctor along that line.

Mr. Stuart: Well, I will withdraw the objection to save time.

Q. Do you remember a conversation that we had with Mary Smith at her home in Leavenworth, Kansas, during the winter of 1914-15, at which time she made some statements to you concerning the birth of a child at Granny Letcher's?

A. I have had perhaps three conversations with her, but I had only one when you were present.

Q. At that time did she say in substance that the child—that the woman she saw with a child at the home of Granny Letcher's during the eighties was not the woman that she afterwards saw and knew as Minnie Atkins, or Minnie Folk?

A. In substance, yes, sir, that is what she said.

Q. Did she say in that conversation that Henry Carter in this case is the boy that she saw there at Granny Letcher's as a baby? A. Yes, sir.

Q. Did she say in that conversation that she was told not to say anything about the mark on the boy's back before she testified in 1914?

A. I don't remember that part of it.

Q. What do you remember, if anything, about what she said?

Mr. Stuart: We object to that, because of he don't remember the impeaching question he can't remember anything.

The Court: Sustained.

Q. Do you remember meeting Sam Nash on the streets of Leavenworth one day during your investigation of this case, sometime during the spring of 1915? A. Yes, sir.

Q. Did you have a conversation with him there on the street?

A. The same day as we talked to Mary Smith, in fact we were on our way to her house when we met Sam.

Q. Did Sam say in that conversation from whom Granny Letcher rented the house 217 Seneca Street?

A. From whom?

Q. Yes.

Mr. Stuart: Objected to. No predicate laid, Your Honor.

The Court: Sam hasn't been a witness except as his testimony appears offered by you gentlemen for what you intended to be the limited purpose.

Mr. German: Your Honor, the record shows this fact——

Mr. Stuart: We withdraw the objection.

Mr. German: We understand he didn't testify, Sam Nash hasn't been put on here as a witness.

The Court: The objection is withdrawn. Proceed with your question.

Mr. German: I was wanting to suggest to the Court that there isn't any question put to Sam on this subject because he has never been brought here as a witness.

The Court: That is a part, gentlemen, of what I will have to determine eventually. You gentlemen want this witness to answer this question and there is no objection. He may proceed to answer it.

Mr. Stuart: But he wants him to answer with the distinct understanding that he don't impeach Sam Nash.

The Court: Oh, well, this witness is on for all purposes. This question is admitted for all purposes which the Court finally conceives it should have in the case.

Mr. German: If counsel will bring Sam on the stand we will raise the predicate.

The Court: If you want the witness to answer this question let him answer.

Mr. Allen: Your Honor please, I want to be fair with the Court and counsel. This witness has not been interrogated about this matter at all.

The Court: I know, Judge, but there is no objection to Mr. Cook's testifying to it if you want it.

Mr. Cobb: We object to it as hearsay.

Mr. Allen: Your Honor, on that subject I want to say that there is not evidence in this case——

The Court: The objection will be overruled and exception noted.

(Question read to witness.)

A. He did.

Q. Who did he say she rented it from? A. Mr. Dassler.

Q. Did he say whether or not that was before they moved in there?

A. I don't remember that distinctly, I can state what he said about the rent.

Q. He did say that she first rented it from Mr. Dassler?

A. Yes, sir.

Q. Mr. Cook, you know Ellis Childers? A. Very well.

Q. Who has testified in this case?

A. I wasn't here when he testified, but I know an Ellis Childers, I presume it is the same.

Q. Did he work for a while on this case getting up testimony for the Government on the Nancy Atkins side of this case—— I will ask you was he employed by my office for a while? A. Yes, sir.

Q. During the time that he was employed and before he interviewed any witnesses in this case, did you have a conversation with him?

Mr. Hill: We object to that.

The Court: Well, I suppose that Ellis was interrogated upon some feature of the case.

Mr. Allen: Yes, sir, I will withdraw that.

Q. Did you have a conversation with Ellis Childers during the early part of 1915? A. Yes, sir, several of them.

Mr. Hill: You asked him if he made the statement to you and Mr. Cook which he identified and admitted.

Q. Do you remember a statement in writing that he made?

Mr. Hill: We object to that. That was admitted by Mr. Childers.

Mr. Allen: I am just getting at the time.

The Court: He may answer whether he remembers that a statement in writing was made?

A. Yes, sir.

Q. Before that statement in writing was made, did you have a conversation with him with reference to his knowledge of a child born to Nancy Atkins? A. Yes, sir.

Q. Did he in that conversation, in substance, say that Nancy Atkins never had but one child; that it was a girl born or died in infancy?

Mr. Hill: We object to that.

The Court: Is it your contention that that particular predicate was laid?

Mr. Allen: Yes, sir.

The Court: Look it up in the record during the noon hour and proceed with something else. Mr. Cook will be available. I want to be assured that the predicate was laid.

Mr. Allen: That is all with Mr. Cook now.

Cross Examination by Mr. Stuart.

Q. Mr. Cook, you were formerly engaged in the Government service in this particular case, were you not?

A. Yes, sir.

Q. And your function at that time was to gather together as much evidence as you could to find out what the truth was in this controversy? A. Yes, sir.

Q. Did you collaborate with the Pinkerton detectives in this case? A. I don't understand the meaning of that.

Q. To collaborate means to work together?

A. No, sir, I did not.

Q. You did your work separately and they did their work separately? A. I did my work separately.

Q. Well, you know they didn't do it in conjunction with you, don't you? A. I know that.

Q. Now, Mr. Cook, when you were in the service, Mr. Long, who represented the Page interest, complained to you about the activity of the Pinkerton interest and Sadie James in this case, didn't he?

Mr. German: We object to that as improper cross examination.

The Court: Overruled.

A. Yes, sir.

Q. He complained to you about that, didn't he?

A. Yes, sir.

Q. You know Fred M. Tate? A. I know who he is.

Q. He is a United States Secret Service man?

A. Yes, sir.

Q. Do you know E. B. Linnen? A. Very well.

Q. You know Mr. Linnen?

A. He is Chief Inspector of the Indian Service.

Q. And has been for a great many years?

A. He has been in the Indian service for a great many years.

Q. He is a secret service man?

A. They are not designated as that, but the same thing.

Q. Well, he performs that function? A. Yes, sir.

Q. I will ask you if Mr. Long didn't tell you, after he complained about the Pinkerton's activity and Sadie James, he didn't tell you and Mr. Linnen that he would turn over everything he had in the way of evidence to you and permit you to investigate what you had and that after an examination you said he was wrong he would quit?

Mr. German: We object to that as improper cross examination.

The Court: To what point *is* this witness' chief examination does that refer?

Mr. Stuart: Well, if there is technical objection, I will make him my witness.

Mr. German: Then, we object to it as leading.

The Court: Overruled.

Mr. German: Exception.

A. He did.

Q. I will ask that again: Mr. Long, you say, told you and Mr. Linnen that he would turn over everything in the way of evidence to you that he had and after an examination if you were satisfied he was wrong he would quit? A. He did.

Mr. Stuart: That is all, Mr. Cook.

Redirect Examination by Mr. Allen.

Q. Mr. Cook, at that time, no suit had been brought by the Government?

A. At this particular time there had, Judge.

Q. There had been?

A. Yes, sir. I want to state, however, that I hadn't been assigned on the case at that time.

Q. You subsequently told me what he said?

A. Yes, sir. Pardon me, I think I had told you on different occasions about that.

Q. And I immediately had you detailed to this case?

A. Yes, sir.

Q. Mr. Long didn't turn over to you the information, did he?

A. No, sir, because as Judge Stuart said I wouldn't collaborate with him.

Q. And you went to Leavenworth then to investigate the case? A. I did.

Q. And isn't it a fact that every time you went up there to investigate this case that agents or detectives employed by Mr. Page followed you around from place to place?

A. Now, I don't know who employed them, Judge, that is pretty broad. On different occasions I have had men follow me around in Leavenworth.

Q. Well, did someone?

A. On different occasions I had had men following me around in Leavenworth, yes, sir.

Q. That occurred every time you went up there, didn't it?

A. A number of times, not every time. I wouldn't want to say that; I was there so many times.

Cross Examination by Mr. Stuart.

Q. You say Page had some people up there looking out and watching? A. Pardon me, Judge?

Q. You say Page had some people up there following——

A. I didn't say Page, Judge.

Q. Well, that is all they did do, was to watch, wasn't it?

A. That was all I know of, I don't know what they did.

Cross Examination by Mr. Johnson.

Q. Mr. Cook, did you at any time reduce to writing statements made by Mary Smith to you, relative to this suit?

A. Only notes.

Q. Those notes were——

A. I made pencil notes; pencial notations of what each witness told me and sent it out in my report to the Government.

Q. Did you afterwards reduce any part of that to a written statement?

A. Not her statement, but in substance what she told me. Each day I would interview people, I would make notation of it and have it typewritten in the form they gave it to me, and incorporate it in my report.

Q. I will ask you if you ever gave T. W. Bell, a statement or substance of Mary Smith's statement? A. In writing?

Q. Yes? A. No, sir.

Q. You never did? A. No, sir.

Witness dismissed.

And thereupon, CHARLES HARRISON, a witness produced on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. Charles Harrison.

Q. Charles Harrison? A. Yes, sir.

Q. You are the son of Minnie Atkins? A. Yes, sir.

Q. And brother of Harvey Harrison? A. Yes, sir.

Q. Charlie, do you remember when you came to the Indian Territory? Do you remember back that far? A. No, sir.

Q. How old are you now, about? A. 27.

Q. You were born at Fort Logan, Colorado? A. Yes, sir.

Q. Who did your mother give you boys—you and Harvey—to when you were brought here? A. Kate Holden.

Q. Where did she live?

A. Across the river from Choska.

Q. The south side of the river, or the west side of the Arkansas? A. The west side.

Q. Of the Arkansas river? A. Yes, sir.

Q. What town is near that place now?

A. Haskell, I think.

Q. Do you remember how you stayed at Kate Holden's that first time?

A. I stayed there one summer and one winter as well as I can remember.

Q. Then where were you taken? A. Wagoner.

Q. Who had you in charge in Wagoner? A. Nancy Atkins.

Q. Was Harvey with you? A. Yes, sir.

Q. How long did you stay at Nancy's?

A. About four weeks.

Q. Did you or Harvey either one, go back to your Aunt Kate's—Kate Holden's? A. No, sir.

Q. After that? A. No, sir.

Q. Did your Aunt Kate come over and get you or Harvey over at Wagoner? A. No, sir.

Q. Where was it that your mother gave you to your Aunt Kate, if you know? A. Where were we?

Q. Yes, where was it? At your home, or in Wagoner, or where? A. It was here in Muskogee.

Q. Now, while you and Harvey were at your Aunt Kate's, was there any other boy out there? A. No, sir.

Q. Was there ever any boy there by the name of Thomas Atkins? A. No, sir.

Q. Do you know Tom Way? A. Yes, sir.

Q. The postmaster out at Haskell now?

A. I haven't seen him for a number of years.

Q. Well, he is a cattle man, a tall slender man?

A. Yes, sir.

Q. You know him well?

A. Yes, sir, I did when I was a kid.

Q. Where was it you know him?

A. He had a ranch about three miles from Tom Holden.

Q. Had a ranch? A. Yes, sir.

Q. Did he ever come over to your aunt's? A. He did.

Q. Do you remember anything particular about him? Did he pay any attention to you in any particular way?

A. Yes, he used to play with me and cut up, just like a man would be with a little boy.

Q. Did you ever open gates for him? A. Yes, sir.

Q. Did he ever give you anything for doing it around there? A. Yes, sir.

Q. Twenty-five cents quite a number of times.

Q. Now, during the time that you were at your Aunt Kate's, you saw no boy there by the name of Thomas Atkins, at any time? A. No, sir, we were the only children there.

Q. Your Aunt Nancy ever come over to your Aunt Kate's while you were there that you remember? A. No, sir.

Q. Charlie, if *have you* ever had a brother named Thomas, did you ever know about it? A. Not as I remember of.

Q. When you were there with your Aunt Nancy, was she taking care of any other boy? A. No, sir.

Q. Did you know any boy there in town by the name of Thomas Atkins? A. No, sir.

Q. You and your brother Harvey, then, were the only boys that she was taking care of while she was living there?

A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. How old were you *were you* when your mother turned you over to your Aunt Kate? About how old were you?

A. I was about eight years old as well as I can remember

Redirect Examination by Mr. German.

Q. Did your mother write to you now and then?

A. She written to me about four years ago.

Q. Prior to that and when you were a younger boy?

A. No, sir.

Q. Staying at your Aunt Kate's and at Wagoner, did she write to you? A. No, sir.

By the Court.

Q. How long did you say you were at your Aunt Kate's, after you went there before you went to your Aunt Nancy's?

A. I was there one summer and one winter, and in the spring we went to Wagoner. My aunt taken us and left us with Aunt Nancy.

Q. Where was she living then?

A. She wasn't living—she was staying with some niggers across over the Iron Mountain.

Q. And did you stay with her? A. Yes, sir.

Q. And stay with the negroes? A. Yes, sir.

Q. And you were there how long?

A. There about a month.

Redirect Examination by Mr. German.

Q. Where did you go to then?

A. Went to Charlie Bailey's.

Q. Where from Wagoner?

A. About a mile and a half west of town.

Q. And then you lived with him until you were grown, did you? A. Yes, sir.

Q. You would go back to Wagoner now and then?

A. Yes, sir.

Q. Would you see Nancy now and then?

A. I haven't seen Nancy since we left her at Wagoner.

Q. Since you left her home? A. No, sir.

Q. Do you know where she went to *she* from Wagoner?

A. I heard she went to Coffeyville.

Q. And then, did you learn where she went to from there?

A. Nowata.

Q. So she must have left Wagoner, then, about the time you were taken out to Bailey's? A. Yes, sir, right after.

Q. Right after? A. Yes, sir.

Mr. Hill: We object to that; he said he didn't know.

The Court: Yes, it is apparent that he only knows by hearsay.

By the Court.

Q. Was your brother Harvey still at Nancy's when you went out to Bailey's? A. No, sir.

Q. Did he leave Nancy's and go somewhere else?

A. Ellis Childers came and got him and taken him out to his house.

Q. About the time you went to Bailey's?

A. Before I went.

Redirect Examination by Mr. German.

Q. To refresh your memory, wasn't this Jim Childers?

A. Yes, sir.

Q. Instead of Ellis? A. Yes, sir.

Cross Examination by Mr. Hanford.

Q. Charlie, while you were there with Nancy, did you ever go over to Davis & Jones' store? A. I did.

Q. Did you go with her? A. I did not.

Q. Go by yourself? A. Yes, sir.

Q. How many times? A. Well, I can't say.

Q. Well, many or few? A. Well, a good many times.

Q. *Wne* there a good many times? A. Yes, sir.

Q. Did you ever *go* of Nancy having a boy named Tommy Atkins? A. No, sir.

Q. Did you ever know of her having any boy?

A. No, sir.

Q. How long did you live there in the edge of town at Charlie Bailey's—wasn't it? A. Yes, sir.

Q. How long did you live there?

A. About fifteen years.

Q. That is your present allotment? A. Yes, sir.

By the Court.

Q. Have you in mind now what year it was when you were with Nancy, or month? A. No, sir.

Q. Don't remember? A. No, sir.

And thereupon, court recesses until 2 o'clock P. M.

And thereafter and at 2 o'clock P. M., upon the same day, June 6th, 1917, court convened pursuant to adjournment and further proceedings herein were had as follows:

CHARLIE HARRISON, being recalled, further testified as follows:

Mr. Allen: If Your Honor, please, the defendants the other day said that they wanted Mr. Drew, who is now in the Government service; I have had him brought to town and he is here if they desire to use him.

Mr. Stuart: I believe I would rather have Mr. Baugh, if he is here.

Mr. Allen: Mr. Baugh is also here.

The Court: Alright; cross examine this witness.

Cross Examination by Mr. Hill.

Q. Mr. Harrison, I believe you stated that you were born in 1890? A. No, sir.

Q. Didn't you state that? A. No, sir.

Q. What year were you born? A. I can't say.

Q. You don't know? A. No, sir.

Q. Do you remember when you came to Muskogee with your mother and brother?

A. I remember about when it were.

Q. Do you know about how old you were? A. Yes, sir.

Q. How old were you then? A. About seven years old.

Q. When you first came to Muskogee? A. Yes. sir.

Q. That is when you came from Ft. Logan here?

A. Yes, sir.

Q. You had never been in the Indian Territory before that time had you? A. Yes, sir.

Q. When? A. Well, before that time.
Q. Before you came from Fort Logan here? A. Yes, sir.
Q. Well, at what time had you been here before?
A. Well, it was right after—we would come backwards and forwards all the time.
Q. Backwards and forwards from Fort Logan here?
A. Yes, sir.
Q. How many times? A. Oh, I can't remember.
Q. You remember being backwards and forwards over here? A. Yes, sir.
Q. You remember that yourself? A. Yes, sir.
Q. And you think that when you came here you were about seven years old? A. Yes, sir.
Q. Do you know where you went when you got here?
A. Yes, sir.
Q. Where did you go? A. Went to Kate Holden's.
Q. Went direct to her place from Muskogee?
A. How is that?
Q. Did you go direct to her place? A. Yes, sir.
Q. Didn't stay here in Muskogee a while?
A. Yes, sir, I stayed here a while.
Q. How long?
A. Oh, I don't know, we were here a good while.
Q. Living with your mother and brother? A. Yes, sir.
Q. Do you remember your uncle Lee Atkins?
A. I just barely can.
Q. Was he here when you lived in Muskogee with your mother and brother? A. No, sir.
Q. That was after his death, was it? A. I think so.
Q. Then your memory is that you stayed here a while and then went to your Aunt Kate Holden's? A. Yes, sir.
Q. How old were you when you went there?
A. I was about seven years old.
Q. About seven years old when you went *ehre;* did you live at any other place than here in Muskogee, and your Aunt Kate Holden's before you went to Charlie Bailey's?
A. No, sir.
Q. How long had you been at your aunt Kate Holden's before you went to Charlie Bailey's?
A. I was there one summer and one winter.
Q. With your aunt? A. Yes, sir.
Q. Then where did you go from there? Directly to Charlie Bailey's? A. No, sir.
Q. Is that when you went to your Aunt Nancy's?
A. Yes, sir.
Q. I believe you stated you lived there about—a month, didn't you? A. I think so, the best I can remember.

Q. Where did you live with her?

A. Nancy Atkins was living with some nigger people across the Iron Mountain Railroad and I stayed there with her.

Q. Did you know a negro woman named Patsy Jenkins?

A. No, sir.

Q. Probably called Patsy Overton at that time?

A. No, sir.

Q. Did you ever live with your Aunt Nancy at a negro woman's house, called Patsy Overton or Patsy Jenkins?

A. I can't [] those names.

Q. Can't remember; well, do you remember living in any family about thirteen miles from Wagoner? A. No, sir.

Q. A negro family? A. No, sir.

Q. Then you were about six years old? A. No, sir.

Q. You and your brother Harvey living there from the fall to the next spring? A. No, sir.

Q. You have no recollection of any such event as that occurring? A. No, sir.

Q. And you think the time that you lived with your Aunt Nancy for about a month was when you were about seven years old as you best remember? A. Yes, sir.

Q. How old was Harvey at that time?

A. He was about five.

Q. You are two years older than Harvey? A. Yes, sir.

Q. How long did you live with Charlie Bailey after you went to his place?

A. About fifteen years, I think.

Q. You lived there until you were a grown man?

A. Yes, sir.

Q. Now, the only places you remember of living are Muskogee, Kate Holden's, and about a month with your Aunt Nancy, and the balance of the time with Charlie Bailey?

A. Yes, sir.

Redirect Examination by Mr. German.

Q. Charlie, you say you went back and forth from here to Fort Logan several times; I thought I understood you to say that? A. I did, sir. I can't remember it.

Q. You don't remember it? A. No, sir.

Q. You have that impression from what you remember when you were a child?

A. Yes, sir. All I can remember is traveling on the train.

Q. You have no independent personal recollection of ever making any trip from here to Fort Logan or from Fort Logan to Muskogee, except you remember riding on the train?

A. No, sir.
Q. When you were a very young child? A. Yes, sir.

(Witness dismissed.)

And thereupon, FRED COOK was recalled for further examination and testified as follows:

Redirect Examination by Mr. Allen.

Q. Mr. Cook, prior to the time Ellis Childers went to Nowata did you hear a conversation I had with him in which he made certain statements with reference to going to see Nancy Atkins? A. Yes, sir.

Q. Did he at that time say to me that if we would let him go and see Nancy Atkins that he was sure that Nancy would tell him the truth about this child?

Mr. Hill: We object, the proper predicate has not been laid.

The Court: Was he interrogated about that?

Mr. Allen: I will read your Honor the question.

The Court: I mean, Judge, when Mr. Childers was on the stand, was what you are going to read asked him?

Mr. Allen: Yes, sir, at page 1395 at the bottom.

"Q. Then, you told me didn't you, that you believed if you could get Nancy away from that crowd that she would tell the truth about this boy? A. I may have, I don't recollect."

Mr. Hill: There is two objections to that; one is, he hasn't dated it, and the other don't show that Mr. Cook was present.

Mr. Allen: "Q. Didn't you state if you could get her away from that crowd that you could get her to tell the truth? A. You said it and I sanctioned it; you asked if I didn't think so and I said yes."

The Court: Well, now where did you place this conversation when you were asking Mr. Childers?

Mr. Allen: Prior to the time he went to Nowata.

The Court: Did you show Mr. Cook to be there?

Mr. Allen: I didn't in the examination; I didn't remember Mr. Cook heard the conversation.

The Court: You may answer.

A. What is the question? (Question read) He said this——

Mr. Maxey: Well, let him answer the question first.

The Court: Did he say that or that in substance?

A. He did in substance.

The Court: All right, you may answer.

A. He said if Judge Allen or myself would go with him that Nancy Atkins would tell us that she never had a child named Thomas Atkins.

Q. Mr. Cook, you made a report of your work in this case to me under date of July 30, 1915, did you? A. Yes, sir.

Q. In which you gave me the information that you had collected? A. Yes, sir.

Q. I will ask you to refresh your memory by page 13 of this report and say whether or not Mary Smith, at the time and place I have stated this morning, said to you in substance, in my presence, that she was advised not to state on the witness stand that the Tommy Atkins she was testifying about was Henry Carter? A. She did in substance.

Q. You remember that she said that? A. Yes, sir.

Q. What testimony was she referring to?

A. To the case of Tommy Atkins.

Q. The testimony she gave in 1914 at Leavenworth?

A. Yes, sir.

Cross Examination by Mr. Hill.

Q. Mr. Cook, you did send for Nancy Atkins and have her to make a statement in your presence and that of Mr. Allen after this conversation with Ellis Childers?

A. I did not.

Q. Weren't you present when she made the statement?

A. Never talked to her in my life; never saw her that I know of.

Q. You know that she did make a statement?

A. I do not.

Q. In Judge Allen's office? A. I do not, no, sir.

Cross Examination by Mr. Stuart.

Q. Do you know, Mr. Cook, you were speaking of the time that Mary Smith testified at Leavenworth? A. Yes, sir.

Q. In the state case? A. Yes, sir.

Q. At that time as a matter of fact, Henry Carter hadn't been heard from had he?

A. I couldn't tell you that.

Q. Nobody had ever spoken of Henry or heard of Henry in connection with this case?

A. I couldn't tell you.

Cross Examination by Mr. Cobb.

Q. Mr. Cook, either you or Judge Allen took a statement from Mary Smith?

A. I never took any signed statement from her in my life.

Q. You transcribed a statement you took from her?

A. I don't know whether I did or not, or whether Judge Allen did.

Q. You was present when that statement was dictated?

A. When he dictated it?

Q. Yes? A. No.

Q. Well, I mean when the statement was given?

A. The way I recollect it, Mr. Hill, is this: We would talk to her and make notes of it.

Mr. Hill: That is Mr. Cobb.

A. For fear we would forget what they would say, we would go back to the stenographer and dictate it.

Q. She made a statement to you?

A. In our presence, yes, sir.

Q. Now, in that statement that she made to you, she told you that this Minnie Atkins was the same Indian woman that was there at Granny Letcher's?

A. When she talked to Mr. Allen and I?

Q. Yes, sir?

A. She said the Minnie Atkins Mr. Long introduced to her was a larger woman than the woman she saw at Granny Letcher's.

Q. Did you ever talk to her more than once?

A. I have talked to her two or three times.

Q. She afterwards told you she was able to identify this woman as the same Indian girl; didn't she make the statement to Judge Allen and Judge Allen had the stenographer to transcribe the statement?

A. I never heard her make it in my presence.

Q. You heard about that statement being made, didn't you?

Mr. German: We object to that as hearsay.

The Court: Sustained.

Mr. Cobb: That is all.

Mr. Stuart: In as much as Mr. Cook's memory has been refreshed by the reports he made, we would like to see the report.

Mr. Allen: Your Honor. I would be very glad to let them examine any part of the report that refers to any of the testimony of Mr. Cook; and as far as I am concerned I have no particular objections to it being examined, but

it is Mr. Cook's private report to me concerning the general investigation of the case.

The Court: Well, they have asked to examine it. Now, I am not going to require you to furnish it to them except so far as it relates to Mr. Cook's testimony here and might be beneficial for the purpose of cross examining if necessary.

Mr. Allen: I would be glad to read into the record all of Mr. Cook's report applicable to Mary Smith.

The Court: All right. Go on. I will not require you to turn it over to them.

And thereupon, JOHN HUTCHINGS WHITE was produced as a witness for and on behalf of the government in rebuttal who having been first duly sworn testified as follows:

Direct Examination by Mr. Pinson.

Q. State your name, age and post office address and profession, please sir.

A. John Hutchings White; forty-four; Muskogee, physician and surgeon.

Q. Doctor how long have you been engaged in the practice of medicine and surgery? A. Twenty-one years.

Q. With what institutions of learning were you affiliated in your medical research and study?

A. I studied at the University of Virginia, New York Polyclinic, and old Marion Street Maternity, and Hudson Street Hospital New York.

Q. You refer to the Overmeyer Institute of Maternity?

A. The Old Marion Street Maternity.

Q. Where is that institution located?

A. All in New York City.

Q. What connection did you have with the maternity institution that you have just referred to?

A. I was medical superintendent of it.

Q. For how long? A. About eleven months.

Q. Is that an institution which has a large number of maternity cases, obstetrical cases?

A. We handled from twenty to thirty cases a month there at that time.

Q. Doctor, in your practice as a physician and surgeon have you come in contact with many obstetrical cases?

A. Yes, a good many.

Q. Could you in any way approach an estimate of the num-

ber of obstetrical cases in which you have officiated, or in which you have been concerned?

A. Why no I can't; there has been over a thousand easily.

Q. Doctor as a practicing physician I will ask you in cases of childbirth into what stages as generally recognized is labor divided? A. Three stages.

Q. Now mention each of the stages and just explain to the court what takes place in each of those stages.

A. Well the first stage of labor begins with the pains or uterian contractions, and that stage of labor is complete with the complete dilatation of the neck of the uteris or cervix. The second stage is complete with the birth of the child. The third stage is complete with the delivery of the placenta and contraction of the uteris.

Q. The first stage begins with the first pains, the first contractual pains, do I understand you?

A. Well the contraction produces the pains.

Q. Then the contraction of the uteris produced or brings about a pain which is the first indication that a woman is in labor, is that true? A. Yes, sir.

Q. What is the function, physiological function, of those first pains, what do they serve to do?

A. To dilate the cervix.

Q. The cervix in its normal condition, Doctor, resembles what or what is its structure and the substance, nature of the substance?

A. Composed of non-striated muscle tissue and is lined with mucus membrane.

Q. Now in its normal condition is it open or closed, is the orafice open or closed?

A. Well that would depend upon whether it was a primipara or multipara.

Q. Now explain what you mean by that doctor, depending upon whether primipara or multipara?

A. Well, it would depend whether it was the first child or second, third or fourth child.

Q. Well, I mean explain what you find in case of a woman with first child and what in case of a woman that has had one or more children?

A. Well, the usual thing a woman with the first child the cervix is nearer the condition in which there has been no children; in other words, it is about an inch long, has a distinct internal and external os. In the case of multipara, during the pregnancy and especially late in pregnancy, the internal os is very often obliterated entirely and you have a very small thinned out neck to the uteris.

Q. Now what is the condition of the opening in that small

thinned out neck in the multipara at about the beginning of labor as a rule?

A. Well, it is generally large enough to get from one to two fingers in it.

Q. There is an opening in the multipara as a rule?

A. Yes.

Q. Doctor the birth of a child ordinarily brings what injuries if any to the cervix?

A. Why very often produces lacerations to the cervix.

Q. Now, as those lacerations heal what is formed there if anything?

A. Well, they don't always heal they form scar tissue.

Q. They heal or form scar tissue. If they do not heal, what is the nature of the substance at the laceration?

A. There is a gap in this ring or notch.

Q. Just an opening? A. A gap in this ring or notch.

Q. Upon being called to the bedside of a woman in labor, what is the first matter about which the physician gives himself concern in making an examination?

A. To ascertain the position of the child and the size of the pelvis.

Q. Why is that important doctor, before we leave that one point, why is the obtaining of information as to the position of the child important?

A. Because if there is a mal-position of the child you have to correct it before labor is passed——

Mr. Stuart: Your Honor, to save time, I object to this I can't see that it is throwing any possible light Your Honor knows, and we all know that the presentation of the child is a serious matter.

The Court: Well, I suppose the point he is getting at has relation to your doctor's testimony in regard to what he did there when he visited this woman. Now, I don't think what the doctor is testifying to now is in contravention of any testimony he gave on that particular phase of the case. I think that is established by the evidence.

Mr. Pinson: If Your Honor please, here is the point: The doctor who testified as to the things which he found there, testified that examination was made for the specific purpose of ascertaining this particular fact. Now I am offering to prove by Doctor White that the examinations are made primarily for an entirely different purpose, and offering now to prove the importance of establishing the things which the doctor does seek to establish by that examination. The purpose is to show that

an examination should be made for a specific reason which is of prime importance.

The Court: Well, now if both doctors made the same examination, what difference does the purpose make? Well, go on I take it we will get through with that very quickly anyway.

Q. You may explain the importance of ascertaining the presentation or the position in which the child lies in the uteris, Doctor.

A. To if possible correct that position before labor has advanced and make it easier for the delivery of the child, and make it more certain of the delivery of a normal child, and to make it easier on the mother by correcting the mal-position.

Q. Now how is that position determined by what kind of an examination?

A. By both a vaginal and abdominal examination.

Q. Now is the vaginal examination made by introducing the finger into the cervix, or is it made by an examination of the exterior of the cervix?

A. Well, I invariably introduce my finger into the cervix if I can get it in there.

Q. Into the cervix. Doctor, in ascertaining whether or not the child is in the proper position, do you also make any examination as to the bony structure?

A. Determine the size of the pelvis.

Q. What is the purpose of that examination?

A. So as to see the proportions between the child's head and the woman's pelvis and know whether or not you can deliver a head of that size through a pelvis of that size.

Q. Now, Doctor, is it customary to ascertain whether or not a woman has previously given birth to a child?

A. I beg your pardon.

Q. Is it customary to ascertain at the time of the birth of a child, whether the woman has previously given birth to another child? A. Yes.

Q. Now, what is the method customarily used in obtaining that information?

A. Well, I usually ask the mother the first thing.

Q. Are there any matters connected with the history of previous pregnancy, if there have been any, which you make it your duty to find out? A. Yes, indeed.

Q. What are those matters?

A. Everything pertaining to prior births; whether she had a difficult time; whether instruments were used; whether she had fever following birth of this child; what complications ensued.

Q. Then do I understand you to say it is a matter of importance if there has been a previous birth to ascertain the history of that birth?

A. Yes, sir, I think it is important.

Q. In the midst of labor, Doctor, is there a period at any time when the presence of lacerations can not be determined possibly by digital examination?

A. When the cervix is dilated.

Q. I understand there is a period, such a period then, and that is when the cervix is dilated? A. Yes, sir.

Q. Now, when does that dilatation of the cervix occur; during the first, second or third stage of labor?

A. First stage.

Q. Is there any well defined time that may be fixed as to the time, after the first pains, when the dilatation becomes complete?

A. No; it varies a little. You have an average time for the first birth and for the succeeding birth.

Q. What is the average time as to first births and what is the average time as to the succeeding births in which the first period or stage of labor is terminated, completed?

A. Well, that is rather a wide range.

Q. Well, I understood you to say you had an average is the reason I asked you, Doctor?

A. Well, I mean the entire period. Multipara, or woman who have had babies, usually take from eight to twelve hours; with the first child it runs from fourteen to twenty hours; usually about sixteen or seventeen hours.

Q. That covers the entire labor? A. Yes.

Q. Now in multipara as a rule, Doctor, is the dilatation more or less rapid than primipara?

A. Much more rapid.

Q. If you were called to the bedside of a woman in labor, who had been in labor for an hour, in the case of a perfectly normal birth, as it developed, a woman of good health, a large strong woman in about her nineteenth or twentieth year and you ascertained from a digital examination that at that time no dilatation of the external os of the cervix was present, what to your mind would that indicate as to whether she was primipara or multipara?

A. Well, it would rather indicate a primipara.

Q. Now, if you found, Doctor, at about that time of labor, if you found indications of notches appearing in the cervix without any other indications, the symptoms of a former pregnancy, and without any information on the subject of either parent, as to former pregnancy, would you consider

that one fact a sufficient basis for you to make a diagnosis of a former pregnancy?

A. Well, I should say that something had happened to the neck of that uteris.

Q. What could have happened, Doctor, to cause an injury of that kind?

A. Well she might have had an operation and might have had an abortion and might have had a dilatation of the cervix to produce abortion and might have had expulsion of a fibroid.

Q. Any of those things would have caused that tearing?

A. Yes, sir.

Q. Would you then, Doctor, upon that one fact alone, base a diagnosis of a previous pregnancy?

A. No, I couldn't say there had been a previous pregnancy.

The Court: It is a condition which would arise alike from a previous child birth is it?

A. Yes, sir.

Q. In your experience what is the smallest interval of time which you have known to elapse between the birth of one child and the birth of a succeeding child to the same woman? A. Generally it has been about a year.

Q. That is the lowest time, that means twelve months. Are there any questions on record of earlier births?

A. I don't recall any.

Q. In connection with the feeding of a child, Doctor, you may state whether or not a child might be nursed for a period of three weeks, and then the nursing continued over a period of six months, one nursing a day without an expulsion of the milk by pressure of some kind during the day?

A. I should say that it would not continue that way for that length of time.

Q. What in the normally healthy woman is the length of time required to remove the milk from the breast without the assistance of the breast pump, by the assistance of the hands alone?

A. Well, I should say it would take fifteen or twenty minutes of good work.

Q. What number of milkings of the breast would be required during the period of a day, where the child was from three weeks old on to the fourth, fifth or sixth month, approximately how many milkings of the breast would be required where the baby would only nurse once during the day?

A. In order to keep up the secretions of that milk I should say three to five times a day.

Q. A period of fifteen or twenty——

A. At least that fifteen to twenty minutes.

Q. At each time? A. Yes.

Q. Doctor, can you recall now in your experience having made an examination of a woman after being called to her bedside, and while she was in labor, for the purpose of ascertaining whether or not she had had a child previous to the one under which she is now laboring?

Mr. Stuart: Oh, we object to that, Your Honor, because it is not general in its character.

The Court: Objection sustained.

Q. Is it customary for physicians to make such examination as to determine that particular fact, or is it customary to ascertain it by questions? A. Ascertain what?

Q. To ascertain the existence of a previous pregnancy and labor? A. Why, it is much easier to ask.

The Court: It seems to me it is a self-evident proposition. What one doctor does might not be what another doctor does. It is self-evident that the parents are to be relied upon and it probably would be the easier way to ask them.

Cross Examination by Mr. Stuart.

Q. If there are no parents there, and no children, Doctor, it would be pretty hard to find out from the parents wouldn't it? A. What?

Q. If there are no parents in the room and no children in the room it would be pretty hard to find out whether a woman had any children or not would it?

A. I should think not.

Q. All right, so if you went into a room where a woman was and no children there and no parents there, and this woman was in labor, and you by a hand manipulation examined her womb and found certain fixed notches inside, near the cervix or in the cervix, that is an indication you say of half dozen things that may be? A. Of a number.

Q. But childbirth is one of the things that could have caused it, isn't it, doctor? A. Yes, sir.

Q. One of the things which could have caused it. So therefore if you had gone there, Doctor, and inserted your fingers in the cervix to determine whatever was necessary to determine there, and you found those notches there perfectly apparent to the touch and fixed, you would say that unless she had had some other trouble, that childbirth caused it wouldn't you? A. Yes, sir, that would be my conclusion.

Mr. Stuart: That would be your judgment. I think that is all, Your Honor.

(Witness dismissed.)

Mr. German: We now offer the deposition of Trent G. Anderson, taken before Mr. Penick, appearing in transcript of depositions beginning at page 481.

And thereupon, FRANK L. MONTGOMERY, being recalled in rebuttal, further testified as follows on behalf of the complainant:

Direct Examination by Mr. German.

Q. Mr. Montgomery, you are the Frank L. Montgomery who testified in this case before? A. I am.

Q. On the occasion in Seattle in December, 1914, when you were at Captain MacNab's quarters and when Minnie Atkins or Minnie Folk, at the time on the occasion, when she made the confession—so-called confession, state whether at the time or at any time during that morning on that occasion you said to her: "You are not the mother of Thomas Atkins, are you," and she bobbed her head; that she *she* bobbed her head in answer?

Mr. Stuart: We object to this, Your Honor, because he has already testified to it on direct examination. Mr. Montgomery stated when he made that statement that she nodded her head; wasn't that your statement, Mr. Montgomery?

The Court: Some witness for the defendant has stated on the stand that Mr. Montgomery made a similar statement to Minnie, in response to which Minnie bobbed her head.

Mr. German: That was Mr. Hanford, Your Honor.

The Court: Now, he may be interrogated as to whether he made that statement to Minnie Atkins, the direct charge to her that Thomas Atkins was not her child.

Mr. German: That is what I am asking.

Q. I didn't make the direct assumption to Minnie Atkins that she was not the mother of Thomas Atkins—of Tommy Atkins, on that occasion, nor anything like it.

Q. Did you propound the question to her or state to her in substance: "You are not the mother of Thomas Atkins,

are you?" In answer to which, or in response to which she bobbed her head; did that occur between you and her?

A. No, not in that form at all.

Q. In what way did the matter come up?

A. The matter came up in response to my desire for her to make a statement as to whether or not she was the mother of Thomas Atkins.

The Court: In short, Mr. Montgomery, you, when you were on the stand, under direct examination, stated everything as you then remembered or as you now remember it, that transpired between you and this other witness?

A. Yes.

Mr. German: Alright, alright.

The Court: We have his and have the other now.

Mr. German: Alright.

Q. Now, Mr. Montgomery, your testimony when you were on the stand before, you were not taken beyond the time on the day following the making of this so-called confession when she repudiated it to you, and the occurrence at the hotel. Now, let's see what happened after that. At the hotel—no, first I want to ask you to relate just what occurred at the home of Minnie on the day following the day on which she made this so-called confession to you; how did you happen to be at her home, or come in contact with her that day, first?

A. At the invitation of Mr. Hanford.

Q. Was that on the occasion when she retracted the confession? A. It was.

Q. I believe you told before about Mr. Hanford having come to Captain MacNab's quarters and asked you to come down there? A. Yes.

Q. Now, when you got down there, what did you say and what did Minnie say?

A. I wouldn't attempt to detail the actual words——

Mr. Stuart: Your Honor, he has already told every word of that.

A. I think I have covered that ground.

Mr. German: Well, we will pass on from that.

Q. At the hotel then, on that same day, as I understand it, you and Mr. Hanford were at the hotel on that same day?

A. Yes, sir.

Q. Now, state whether or not at the hotel when Mr. Hanford came in, if any statements were made by you with rela-

tion to persons representing the Government and if so what statement.

Q. I introduced Hanford to Buell and Mr. Robinson, and stated to Mr. Hanford that Buell was representing the Quinton Garret side of this case; that Mr. Robinson belonged to the secret service and the best of my recollection is that I also stated that Mr. Robinson was working with Mr. Buell, and that they had no authority under the Government whatever, and that I was the sole representative of the United States Government in that conversation, or audience or meeting.

Q. Now, by secret service, what did you mean?

The Court: That will be immaterial here. Any view of the term Mr. Hanford says he drew and a certain conclusion, whether that is warranted or not, is immaterial.

Q. Now, what time in the day was this, Mr. Montgomery?

A. It was in the latter part of the afternoon; I don't remember the hour.

Q. That evening did you go to Minnie's house?

A. I did.

Q. About how long after this meeting in the hotel that you have just been talking about?

A. Well, the departure from the hotel was the culmination of this meeting.

Q. At Minnie's house?

A. No, the departure for Minnie's house I should have said, was the culmination of the meeting at the hotel—the audience at the hotel lasted perhaps three-quarters of an hour.

Q. At whose suggestion did you go to Minnie's house?

A. I think it was at the suggestion of Mr. Buell, perhaps.

Q. Had you communicated with Mr.—Captain *McComb* with reference to meeting at Minnie's house? A. I had.

Q. When did you communicate with him?

A. That was after Minnie had repudiated her confession.

Q. Now, had the Captain or not—had he or not, agreed to meet you at Minnie's?

A. He had, at five o'clock in the afternoon.

Q. Five o'clock in the afternoon; was Mr. Hanford with you at the time you made the arrangement to go down to Minnie's house?

A. You mean arranged with Captain MacNab to go to Minnie's house?

Q. Yes. A. I don't remember whether he was or not.

Q. At the hotel was the matter of going to Minnie's house spoken of? A. It was.

Q. Was any mention made of the fact that you had talked with Captain MacNab about it?

A. I think I stated that I had an appointment with Captain MacNab to meet him at Minnie's house at five o'clock.

Q. Now, a party of you went, then, to Minnie's?

A. Yes, sir.

Q. How did you go? A. Went in a taxi.

Mr. Stuart: Your Honor, we object to this; it has all been gone over with.

The Court: To what point is this rebuttal?

Mr. German: Your Honor, I am driving at the purpose—— Your Honor was interested to know the various occurrences as related by Mr. Hanford. Now, I have never gone over this with this witness; he has not touched upon this point. We objected to the testimony of Mr. Hanford relating to the meeting at Minnie's house that afternoon, and the incident at Colonel Wilson's house following it, on the ground that it was immaterial.

The Court: Well, then, do you propose to show that this is rebuttal for this witness' testimony—that this witness' testimony will be at variance in some material feature with what another witness has said has occurred?

Mr. German: That is true, that is what I am driving at.

The Court: Alright.

Q. Mr. Hanford went with you out to Minnie's house?

A. He did.

Q. Now, was his friend, this lawyer there, who came to the hotel, also, with you? A. I think he was.

Q. When you got to Minnie's house was Captain MacNab there? A. He was not.

Q. Did you take any steps to get him? A. I did.

Q. Was you successful? A. I was not.

Q. Now, did you go in the house at Minnie's?

A. I think I did.

Q. Tell what occurred there?

A. I think about the first thing that happened when I walked into the room was a little abuse upon the part of Minnie towards me for having Mr. Robinson out the morning before, an incident which I related on direct examination; I showed Minnie's husband a copy of the telegram whereby I was authorized to grant immunity to Minnie. That is practically all that occurred as concerned me in the house at that time. Now, there was quite a good deal of conversation between Sadie

James and Hanford and Minnie, but I didn't give any particular attention to it.

Q. Now, weren't—as you were leaving the house, did you have anything to do with an assault that Sadie made on Mr. Hanford?

A. Yes, I made Sadie let him alone.

Q. Where were you in reference to Sadie and Mr. Hanford at the time of that assault?

A. I was immediately in front of them; Sadie struck Hanford and I turned around and took hold of her and made her behave herself.

The Court: The Court has not gotten the slightest impression that this witness had anything to do with what Sadie did there.

Mr. German: Alright, Your Honor.

Q. Now, Mr. Montgomery, after this occurrence, where did you go? A. I went to see Colonel Wilson.

Q. For what purpose?

A. I had a letter from the Department—the War Department, to Colonel Wilson, and had called on h..n on several previous occasions and had been unable to see him and desired to leave Seattle just as quick as possible and wanted to see him that evening, so that I could leave on the next train; and I got in a taxicab after leaving Minnie's home and drove up to Colonel Wilson's quarters.

Q. Now, was it dark? A. It was.

Q. Did you know where Mr. Hanford was going to from Minnie's house? A. I did not.

Q. When you got to Colonel Wilson's, was Mr. Hanford there? A. He was.

Q. Who was on the porch first, you or he?

A. I take it that he was on the porch first because he was in the house when I got there.

Q. Oh, he was in the house? A. Yes, sir.

Q. He was not on the porch then, when you got there?

A. He was not.

Q. State whether you struck some matches there to find the door plate and see whose house it was?

A. Mr. German, I don't know; I took it to be Colonel Wilson's house from the location as I——

Mr. Stuart: I object to that because it is an impeachment on an immaterial matter whether the man struck matches or not.

The Court: For the life of me I can't see how it enlightens me.

Mr. German: Here is the reason, Your Honor; it

seems from Mr. Hanford's testimony that Mr. Montgomery followed him up there and was trying to do some——

The Court: I didn't get that impression; I got the impression that Mr. Hanford by going across lots, got there before the witness did, and they had started out without any thought of him; and when I said I got no impression that this witness had anything to do with what Sadie did, I meant in regard to that particular encounter.

Mr. German: I understand, yes, sir.

Q. Now, Mr. Montgomery, you talked with Colonel Wilson there on that occasion? A. I did.

Q. In the presence of Mr. Hanford or not?

A. I had a formal meeting with Colonel Wilson in the presence of Mr. Hanford, and at the suggestion of Mr. Hanford, I went into the sitting room and talked with Mrs. Wilson and her daughter until after the audience had been had with Colonel Wilson and Mr. Hanford, after which Mr. Hanford retired and I presented my compliments to Colonel Wilson, and told him what I had done there in a general way, and bid him goodbye.

Q. Were you expecting to see Mr. Hanford there before you reached there? A. I certainly was not.

Q. Mr. Montgomery, while you were up there, you were working in conjunction with Mr. Buell and Mr. Robinson, were you, co-laborers in the field?

A. I started out with that intention, Judge, yes.

Q. You were directed to do so, were you not?

A. I instructed the office at Washington and Judge Allen that these parties would accompany me and co-operate with me. I had no instructions to the contrary.

Q. You did collaborate with them?

Mr. German: Your Honor, I object to this on the ground it has all been gone into.

Mr. Stuart: I never asked him that question in my life, because I didn't know he did collaborate.

Mr. German: Substantially that.

The Court: Go on.

Q. Mr. Montgomery you have related this matter as you can remember all these conversations? A. Yes, sir.

Q. As you remember?

A. But there is one thing, Judge, I would like to modify, the impression perhaps to my answer to your first question. In my work at Seattle up to the time that Minnie had repudiated her confession, there was not appearance upon the part of Mr. Buell and Mr. Robinson or Sadie James, other than

the time I sent Mr. Robinson out to cover the house that morning about which I have related.

Q. Well, now, you knew Sadie James' characteristics pretty well, didn't you; you learned them?

A. I was not as well acquainted with Sadie at that time as I am now.

Q. Why did you take Sadie with you?

A. Sadie was taken by Mr. Buell.

Q. Mr. Buell had Sadie in tow? A. Yes, sir.

Q. And they went with you every time you went?

A. Went where?

Q. Went to these different places, I mean on their own hook?

A. They were there, yes, sir.

Q. I don't mean they went in the same carriage with you, but they were there? A. They were in the community.

Q. I am talking about these times they went to Minnie's house? A. No.

Q. How many times was Sadie with you at Minnie's house? A. One time.

Q. What time was that?

A. That was the Saturday evening during the time that Mr. Hanford received his so called injuries.

Q. Well, now, when your party representing one side of these belligerents retired from the field, you didn't expect to see Mr. Hanford back at the Colonel's when you got up there?

A. No, indeed.

Q. He never indicated he was coming? A. No, sir.

Cross Examination by Mr. Hanford.

Q. Mr. Montgomery, did I understand you to say that you had an audience with Col. Wilson in my presence at his house?

A. I stated that I met Col. Wilson in your presence and after a few conventional remarks that I retired and you and the Colonel had a conference in private.

Q. You had a conference with him in private after I retired? A. Yes, sir.

Q. And that was all?

A. No, Mr. Hanford, I met Col. Wilson in your presence and was very probably introduced to him by you, and after a few formal remarks, and I think at your suggestion, I retired to the sitting room and you had a private audience with Col. Wilson, and then you left and after that I went in and talked to Col. Wilson myself. That is my recollection of it.

Q. Mr. Montgomery, you have referred to the altercation between Sadie James and myself; you said you made Sadie James let me alone; what do you mean by that?

A. I turned around and got hold of Sadie and made her behave.

Q. That occurrence all happened there in the yard?

A. It was just as we were leaving Minnie's house out in the yard.

Q. You know that I had first struck Sadie James and then she struck me with her bag? A. I don't know.

Q. You didn't see that? A. No.

Q. At the time you came back there and got Sadie James I was talking to Harry Folk, Minnie's husband?

A. No, she was coming down a path and you and Sadie were back of me and you got into an altercation.

Q. You did see me talking to Harry Folk, you saw him come down there and hand me his gun? No, I didn't.

The Court: Gentlemen, I think you have taken enough time for this. I am not considering it as casting any reflection on your, Mr. Hanford.

(Witness dismissed.)

Mr. German: Now, Your Honor, we would like to re-offer Government's Exhibit A-15, which consists of a certified copy of that page of the Creek Deed delivery book which contains entries relating to the Thomas Atkins family. We offered that as part of our case in chief, and on account of objections it was not admitted, and since then, and as a part of the case for the defendants, they have made some proof concerning that record; put Mr. Foreman on the stand and had him testify concerning that record, and Judge Thomas' knowledge of the Atkins family, and we therefore now re-offer it.

The Court: Is it objected to? He is offering the page of the deed delivery book about which you interrogated Mr. Foreman on the stand.

Mr. German: Page sixteen of the Creek Deed Delivery Record, which contains entries relating to the Thomas Atkins family. It wasn't in evidence until they put Mr. Foreman on the witness stand.

The Court: You may put it in. If you desire an objection and exception, gentlemen, you may have it. There has been some interrogation about it and I will let it go in.

And thereupon, ROBERT L. BAUGH was called and sworn as a witness for and on behalf of the defendants, Minnie Atkins, et al., and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. Robert L. Baugh.
Q. Where do you live? A. Muskogee, 720 Capital.
Q. Where did you work in 1914?
A. I worked for the Dawes Commission.
Q. In whose office?
A. Well, I worked in the Land office.
Q. Who was your immediate superior? A. Jim Kennedy.
Q. And right above him, Mr. Drew?
A. Mr. Drew, yes, sir.
Q. You worked there helping Mr. Drew out when he got crowded with work? A. Yes, sir.
Q. And you did whatever was necessary? A. Yes, sir.
Q. I want you to examine this card and tell me who wrote that down there in pencil?

The Court: That is the original card?

Mr. Stuart: Yes.

A. That is my writing.
Q. When did you put it on there?
A. Well, sir, I don't remember.
Q. You didn't commence working there until the spring of 1914, did you Mr. Baugh?
A. I went to work for the Dawes Commission the 19th of October, 1913.
Q. Yes, but you didn't commence working on these records like that in Mr. Drew's office until the spring of 1914, did you?
A. Well, it must have been sometime early in 1914.
Q. Now, you don't know whether you put that on there between the spring of 1914 and the fall of 1915, do you—when did you quit?

Mr. German: We object to counsel leading his witness, your Honor.

The Court: Yes, don't lead your witness.

Q. Well, all right, Mr. Baugh?
A. The best—I can't remember, I was going to say when I quit work there. I didn't do any work in the Land Office I don't think——
Q. But you put it on between the spring of 1914 and the time you quit? A. Yes, sir.
Q. But you don't know the date?
A. I don't remember, I might figure up just when I quit.
Q. Who told you to put it on there?
A. Well, Mr. Kennedy.
Q. You are certain of that?
A. Well, I am not sure, but I usually went to him about

things of that kind, I have an idea Mr. Kennedy did. I usually went to the head man.

Q. You know Mr. Drew didn't, do you?

A. I couldn't say, he might have, but I don't think he did; usually went to the head man.

Q. You put that on there you say between the spring of 1914 and the time you quit?

A. I wouldn't say between the spring of 1914; I put it on sometime after I went to work; I went to work there in October 1913.

Q. You know it wasn't on there in 1912?

A. I don't know whether it was or not; if I put it on it wasn't.

Q. Didn't you say you put it on, that is your handwriting?

A. Yes, sir.

Q. You didn't commence working you say until 1914?

A. 1913.

Q. Was it on there in 1912 then? A. No, sir.

Q. Was it on there in 1913?

A. Not unless it was on there after October 19th, 1913.

Q. You put it on there, didn't you?

A. I put it on there.

The Court: Which?

A. This commencing "Letter of May 9, 1905."

Mr. German: Now, Your Honor, the reason that we haven't objected to this testimony is this: We have no objection to the facts with reference to how that entry came to be on there and when it was put there, being developed, but we think it is immaterial in this case, and just want to suggest that to the Court. We think it is immaterial because the defendant—the witness, Frank Long, examined this card in the spring of 1914 and found that entry on there, and on the 6th of July 1914 they bought a certified copy of that card, which is defendant's Exhibit B-14, and it is on it.

Mr. Hanford: If the Court please, I would like to call attention to what is an evident unintentional misstatement by Mr. German: Mr. Long didn't testify he examined that card in the spring of 1914.

Mr. German: Well, the record will show. I think it supports me.

The Court: Well, I will go to the record.

Examination by Mr. Allen.

Q. Mr. Baugh, when did you first see that card with that notation on it, lately? A. This morning.

Q. Tell the circumstances under which you saw it.

The Court: Is there any doubt about that being his handwriting?

Mr. Allen: Your Honor, Judge Stuart intimated that this witness told me this morning that he wrote this on this card. Now, here are the facts——

Mr. Stuart: I didn't intimate at all. I told you I was informed that he came to your office and told you about it this morning.

The Court: There is no question about this witness having written this?

Mr. German: I think in view of the way this has been referred to from time to time, and questions asked witnesses about it, that it is only proper that it should be shown that Mr. Baugh this morning for the first time had it called to his attention; otherwise we could have furnished him the man sometime during this trial.

The Court: The Court hasn't the least intimation that there is any dereliction on your part regarding it. It is now in the case.

(Witness dismissed.)

Mr. Allen: Now, if the Court please, Charles H. Drew, who was in charge of the office at the time, and who is now in the Government employ, is in the city now and we would be glad to tender him to the defendants if they desire him.

Mr. Stuart: Your Honor, we accept the tender with a great deal of gratitude, but we don't need Mr. Drew.

The Court: We will not encumber the record with Mr. Drew.

Mr. German: Nor with a photographic copy.

And thereupon, J. B. WHITE was called as a witness for and on behalf of the defendant Nancy Atkins and testified as follows:

Direct Examination by Mr. Hill.

Q. You have testified heretofore in this case? A. I have.
Q. Do you know Henry Anderson? A. I do.
Q. Did you have a conversation with him in Wagoner, when you were investigating the evidence in this case, and as

a result of that conversation carry him to an office and have a statement made? A. I did.

Q. In that conversation, did Mr. Anderson tell you that he knew that Nancy had a child and that it was a boy and that it was named Tommy? A. He did.

Mr. Allen: May it please the Court, I don't remember that testimony.

Mr. Hill: This is Mr. Anderson's testimony I am reading from.

Q. Did he state it lived to be quite a big boy?

A. He did.

Q. Did you take him up there to get an affidavit and after you got the affidavit ready he said that he wouldn't sign it unless you would give him a hundred dollars then and three hundred dollars when the case was over?

A. He had that conversation but it was two hundred dollars, he wanted one hundred for himself and a hundred for a fellow by the name of Phillips, a barber. He got Mr. Phillips for me. I never talked to him. And went up to Senator Sutherland's office, and when we got up there Mr. Sutherland had them about completed; Henry Anderson taken me off back out of the office and wanted to know what about the money. I says, Henry I will pay you for your day's work. He says, we can't do that, because if we give any affidavits we have to have a hundred dollars down and three hundred dollars after the case is decided. That was the conversation word for word—meaning him and this barber Phillips.

Q. Did you tell him that you wanted him to testify that they boy lived and that he told you no, that he did not?

A. I did not.

Q. Or anything in substance like unto that?

A. No, sir.

Cross Examination by Mr. Allen.

Q. Mr. White, you had this conversation with Henry Anderson, you say, at Wagoner? A. I did.

Q. Was anything said about money when he first told you about the boy?

A. No, sir, no, sir, there was not.

Q. He went up in the office to make the affidavit?

A. He did, him and Phillip both.

Q. And when he started to sign the affidavit, he declined to sign it until it was paid?

A. He taken me off a little piece out of the office and asked me what about the money, when would they get the money.

Q. Phillip then refused?

A. Yes, sir, I had a very few words with Phillip.

Q. And you had an affidavit prepared for Phillip, too?

A. I won't be positive, Mr. Allen, whether Sullivan and Dick made a statement for them both or not; he was talking to both of them.

Witness dismissed.

Mr. Hill: Now, Your Honor, I want to offer this testimony of Mr. R. F. Day. We want to offer it, it begins with page 443 of the present record; he was put on out of time, and it has never been formally offered as a part of our direct case.

The Court: Mr. *Davis,* the Court remembers, was put on while the Government was putting on its case with the understanding that it was to constitute a part of your case. Now, it will be a part of your case when the Court comes to consider it.

Mr. Hill: Mr. German has a portion that he wants to ask, to strike out.

Mr. German: Mr. Davis was asked this question: "Q. Mr. Davis what was the general reputation among the people at Wagoner at that time as to whose child that was?" We objected and at that time Your Honor overruled the objection and we excepted; now we move to strike his testimony in regard to that. I am unable to specify, because there are several questions and answers——

The Court: The motion is to strike all the answers of this witness Davis in which he testifies to what is the general reputation in the vicinity of Wagoner with regard to that being Nancy's child?

Mr. German: Yes, sir.

The Court: The motion to strike is sustained and your exception noted.

Mr. Hill: Now, we expected to have two witnesses tomorrow, they are out of pocket now, and they will be very short, in rebuttal.

Mr. Stuart: Your Honor, before you adjourn, I would like to ask Henry Carter a couple of questions.

And thereupon, HENRY CARTER being recalled, further testified as follows:

Recross Examination by Mr. Stuart.

Q. When you married the first time, what did you give your age in at? A. 24, I believe.

Q. 24, and you were married what year? A. In 1904.
Q. 1904; that would have made you born when?

The Court: That is a matter of calculation.

Mr. Stuart: Well, Your Honor, I thought he could tell that.

Q. It would make you born in 1880, wouldn't it? Born in 1880?
A. Well, I could figure back and tell you; I am not very good.
Q. It would make you born in 1880 and when you married the second time in 1908, what did you give your age in at?
A. 28, I think.
Q. Four years later. Now, where did you get that age from?
A. Well, I got my age—gave my age in as 24 the first marriage and I——
Q. Where did you get that age from? Who told you about it? A. No one at all.
Q. What did you give it in 24 for?
A. Well, my wife was 22 and I wanted to be a man and I gave it at 24.
Q. Is that it? A. Yes, sir.
Q. And you gave it in as 24?
A. Yes, sir, I never knew my age.

Redirect Examination by Mr. Cobb.

Q. Then how came you to give your age in 1908 when you were married the second time as being 28?
A. Well, it was four years after my first marriage and I couldn't go back any, and I had to say 28 years of age.
Q. Since giving it as 24 the first time, you counted——
A. Yes, sir, I counted from that, and it made 28; it was four years afterwards.
Q. Did you really know your age?
A. No, sir. I never knew my age.

Witness dismissed.

Mr. German: One thing, in looking over the record, Your Honor, Sam Brown's little book in which he listed those names, has been talked about and was left with the Court, and has never been offered in evidence. I think owing to the nature of it it ought to be in evidence.

The Court: What is the exhibit number?

Mr. German: Government's Exhibit A 32.

The Court: The record may show that Government's Exhibit A 32 is now offered in evidence and admitted as a part of the record. I suppose it is just what page?

Mr. German: Yes, sir, just that page.

The Court: Anything further?

And thereupon court takes a recess until 7:30 o'clock this day.

And thereupon Court reconvened at 7:30 P. M., pursuant to adjournment, and the following proceedings were had:

And thereupon, C. B. MALCOM was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. What is your name? A. C. B. Malcom.
Q. How old are you Mr. Malcom? A. Thirty two.
Q. Where do you live? A. I am in Tulsa at present.
Q. How long have you lived in this country?
A. Twenty-two years.
Q. Where were you born? A. Born in Nebraska.
Q. What is your business?
A. I have farmed the last two or three years.
Q. Have you had anything to do with the oil lease business? A. Some, not very much.
Q. Off and on for about how long?
A. Three or four years.
Q. Do you know Frank Long, Mr. Malcom?
A. I have met him a few times, two or three times.
Q. Do you know Charles Page? A. Yes, sir.
Q. Mr. Malcom, when was the first time you ever met Mr. Long, about when?
A. About January, 1914, I believe.
Q. At that time, did you have any conversation with him relating to the Atkins lease or relative to the Atkins property?
A. I did.
Q. Where was it that you met him?
A. I met him sometime the first time somewhere between Second and the Sand Springs Inter-urban station I believe, or the Frisco Station, some where on Main Street.
Q. In Tulsa? A. Yes, sir.
Q. What was the conversation?

A. W. W. Fox, of Tulsa, introduced me to him, and I had talked to Mr. Rogers, Mr. Rogers before that.

Q. Huck Rogers? A. Yes, sir.

Q. Yes. It was through Mr. Rogers that you were attracted to Mr. Long? A. Yes, sir.

Q. Now, you knew somewhat then about the Atkins property? A. Yes, sir.

Q. Now, what was the conversation you had with Mr. Long at that time on the street?

A. Why, we didn't have very much of a conversation. I told him I thought I could be of some assistance to him in finding these parties, and he said for me to see what I could do. And that was about all. He seemed to be in quite a hurry.

Q. What parties do you refer to? A. To Minnie Atkins.

Q. Did he suggest that you see him at any later time?

A. He said to see what I could find out about it and let him know and drop up to the office.

Q. Did you see him again? A. I did.

Q. Where? A. At the office.

Q. Did you have any conversation there about the Atkins matter? A. I did.

Q. What was it?

A. I told him that I had found out nothing about Minnie Atkins or this boy Tommy Atkins.

Q. All right?

A. And he said I needn't matter about Tommy Atkins, that he supposed he died before the war. To go ahead and see if I could find Minnie Atkins.

Q. Now about when was this conversation?

A. I will say about March, maybe, the best I recollect.

Q. In what year? A. 1914.

Q. Well, what did you do then in the matter of finding Minnie, if anything?

A. I couldn't find out anything about her.

Q. Did you have any other conversation after that with Mr. Long or Mr. Page about this matter?

A. That was the last conversation I had with Mr. Long.

Q. Did you have a conversation with Mr. Page after that?

A. Yes, sir.

Q. Do you know of Minnie having been found in the summer of 1914? A. I have heard of it, yes, sir.

Q. You have heard of it. Now, when was it you had a conversation with Mr. Page, was it before or after Minnie was found, the first one you had?

A. Before or after Minnie was found?

Q. Yes?

A. About the first conversation that I recollect of having with Mr. Page was probably in April.

Q. What was that conversation?

Q. Sometime you think in the summer? A. Yes, sir.

A. I had went there to see Mr. Long to tell him I couldn't find out anything about Minnie and Mr. Page asked if I was pretty well acquainted in that country; and I said I was, I had lived down there quite a while, and he asked if I knew about a child that had been dead there a good while and that nobody knew much about. And I told him I couldn't remember at that time. He said find out what you can about it and let me know.

Q. Now, where had you lived?

A. I had lived in the south part of Tulsa County.

Q. What did you do then?

A. I went back up to the office again later.

Q. Did you go out and make any investigation between the time that you went to the office that you have just referred to and the time that you had this first talk with Mr. Page?

A. Yes, sir.

Q. Where did you go?

A. I went to Bixby and south down on Snake Creek to one of the oldest Indians that I knew of in that country.

Q. Without going into details, did you find out anything about an Indian that had been dead for a long time that they didn't anybody know about much?

A. I found out one that had been dead for a good while.

Q. State whether you reported to Mr. Page about that?

A. I did.

Q. What did you tell him?

A. I told him I had found out about a child down on Duck Creek that had been dead for several years.

Q. Did you tell him its name? A. Yes, sir.

Q. What name? A. Big Pond.

Q. What all did you tell him about that?

A. He asked me who knew about it.

Q. Well, did you tell him? A. Yes, sir.

Q. What did you tell him?

A. I told him who knew about it. I remembered the name after old man Buck had told me and there were some other people there by the name of Wills, they are Indians about sixteenth, that they knew about it.

Q. What if anything did you tell him about whether the father of that child was living?

A. I know that I told him that he was dead.

Q. What, if anything, did you tell him about the mother of that child?

A. I didn't know anything about that.

Q. What did Mr. Page say when [] got through reporting about that child?

A. He said that wouldn't do, to go ahead back and see if I could find out anything else about another one.

Q. Did Mr. Page tell you that that day or a later day that that wouldn't do?

A. I believe it was a later day; a couple of days, maybe, afterwards.

Q. How come you to go back and see him at this late a day about the matter?

A. As soon as I—when I told him about that he told me to come back to the office again in a day or two and I did so.

Q. And then when you went back he told you that that wouldn't do? A. Yes, sir.

Q. To go back and look for another one? A. Yes, sir.

Q. Now, did you go and look for another one? A. I did.

Q. Where did you go and look for it?

A. I went down about the same country and over to Coweta and over to Wagoner.

Q. Did you find another one? A. I did.

Q. Did you report that to Mr. Page? A. Yes, sir.

Q. What did you report to him then?

A. I told him I had found another one over there.

Q. Over where? A. Over about Wagoner.

Q. Did you tell him the name of that one? A. Yes, sir.

Q. What name? A. Told him Atkins.

Q. Did that one have a given name?

A. I don't believe that it did; it was not the one that I was looking for.

Q. What did he say to you when you told him about that one?

A. He said, you needn't bother any more about them I have *goy* a live Tommy now and he is able to take care of himself.

Q. Now, when was it that you were doing this work looking for the dead child?

A. That was along in the summer and fall of 1914.

Q. What if anything did Mr. Page say to you with reference to what he would do for you, if anything, in case you found a dead child that would suit alright?

A. I would be taken care of.

Q. How much—about how much were you paid for what you did?

A. Mr. Page, or Mr. Long never did give me a cent themselves.

Q. *How* did?

A. There was someone in the office gave me some money, two or three different times.

Q. For expenses? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. What did you say your name was? A. Malcomb.

Q. Malcomb? A. Yes, sir.

Q. You say you live in the southern part of Tulsa County?

A. Most of the time for 22 years.

Q. Most of the time for 22 years. How did you get into this law suit? Who put you here?

A. I got subpoenaed here.

Q. No, I mean to start off with; how did you ever get connected with this case?

A. I met Rogers at Sapulpa.

Q. Which Rogers? A. Hook Rogers.

Q. Hook? A. Yes, sir.

Q. What did he say he wanted you to do?

A. Well, he said this man Long had employed him to find a Minnie Atkins and he said you have been around in the country a long time, maybe you can help me a little bit.

Q. Let's see, how much Indian blood have you got in you?

A. Not a bit.

Q. Proud of it? A. No, sir.

Q. Well, how could you help?

A. I had been among them for twenty years.

Q. Did you know the Atkins family? A. I did not.

Q. Did you know Dick Atkins *d*amily at Wagoner?

A. No, sir, but over at Sapulpa——

Q. Well, did you answer my question; did you know the Dick Atkins family? A. No, sir.

Q. Did you know the Tommy Atkins family? A. No, sir.

Q. Did you know any Atkins? A. No, sir.

Q. You never heard of them before? A. No, sir.

Q. Yet they employed you to find out where Minnie Atkins was? A. If I could.

Q. You say that was in April 1914?

A. I didn't state positive; about——

Q. Well, about when was it? You said April; March, April or May—well, March we will put it then, was that it?

A. No, sir, I won't say positive.

Q. Was it either March or April?

A. Sometime along there.

Q. 1914? A. Yes, sir.

Q. And you saw Frank Long in January 1914?

A. Yes, sir.

Q. And talked with him about Minnie Atkins and Tommy Atkins? A. I didn't talk to him about Tommy.

Q. Well, what did you talk about? Minnie?

A. Yes, sir.

Q. Why, didn't he tell you that Tommy had been dead before the war? A. He told me afterwards that he had.

Q. He told you where, and when?

A. In the next conversation.

Q. Now, Mr. Malcomb, let's start this right. Where did you first see Mr. Long? Name the place.

A. Well, sir, I met him between Second Street and the Sand Springs inter-urban line on Main street in Tulsa.

Q. You said Mr. Long, I want to talk to you, didn't you?

A. No, sir, I didn't.

Q. Did he say that he wanted to talk to you? A. No, sir.

Q. Did you say Mr. Long, do you want me? A. No, sir.

Q. What did you say?

A. I had got Mr. Fox to give me an introduction to him.

Q. Oh, you had? A. Yes, sir.

Q. What Mr. Fox was that? A. He introduced me to him.

Q. What Mr. Fox—what did Mr. Fox say?

A. He said, this is Mr. Long, Mr. Malcomb.

Q. Say here is the man who can find Minnie Atkins?

A. No, sir, he didn't.

Q. What did he say?

A. He said this man may be able to do you some good.

Q. He said you could do him some good?

A. No, sir, just said talk to him.

Q. Now, before you started down there, Hook Rogers told you to hunt up Frank Long, didn't he?

A. Yes, he told me who it was.

Q. To hunt up Frank Long?

A. No, he said he would make me acquainted when I got back there.

Q. Hook didn't do it though? A. No, sir.

Q. How did Fox get onto it? A. I told Fox myself.

Q. Where is Fox? A. He is in Tulsa.

Q. What does he do?

A. He leases land and buys some, and deals in horses and mules once in a while.

Q. You and Fox met Long there about January 1914, and had this conversation? A. Yes, sir.

Q. Alright now; then, you say that Long said to you that you needn't bother about Tommy, that he died before the war?

A. Yes, sir.

Q. He died before the war, and the only thing that he wanted you to do was to find Minnie? A. Yes, sir.

Q. You didn't find Minnie? A. No, sir.

Q. Did you report that matter to Frank Long?

A. No, sir, I didn't, that was the last time I saw Frank.

Q. You saw Page after that?

A. Yes, sir, I seen him at the office.

Q. What did you see him about?
A. I told him my business up there.
Q. You went to see Page?
A. No, sir, I went to see Long.
Q. And Long wasn't there and you saw Page?
A. Yes, sir.
Q. Who was that who was paying you this money? What kind of looking man was it that paid you this money?
A. That paid me this money?
Q. Yes, who was it?
A. A young light fellow, hardly as heavy as I am; probably as tall.
Q. Do you remember what kind of *occie* you went in?
A. Yes, sir.
Q. What did it look like? Give a description of it.
Q. I went in the fourth floor of the First National Bank of Tulsa.
Q. Went up stairs? A. Yes, sir.
Q. Went in the room? A. Yes, sir.
Q. This man was sitting down when you went in?
A. Who?
Q. This man who gave you the money there?
A. I didn't notice him any at that time.
Q. Did anybody tell him to pay you any money?
A. I never heard anybody tell him to.
Q. Mr. Page say pay this man money?
A. No, sir, he didn't.
Q. Did anybody tell him? A. They did not.
Q. He just came in and gave you so much money?
A. Yes, sir.
Q. How much did he give you?
A. Fifty dollars the first time.
Q. How much the next time?
A. I got seventy-five or a hundred the next time.
Q. You never had brought in any information had you?
A. I was trying to bring in some; well, I did bring in some. I found that dead child down here.
Q. Let's see about that dead child. Where did you find that dead child?
A. I said John Buck was the first man.
Q. John Duck? A. No, sir, John Buck.
Q. Where did he live? A. South of Bixby.
Q. He told you the child died where?
A. Out on Duck Creek.
Q. How far is that from Snake? A. Not very far.
Q. It empties into Snake, doesn't it? A. Yes, sir.
Q. Out here near the Concharty mountains? A. Yes, sir.
Q. And that he drowned on Duck?

A. No, sir, died down there.

Q. What time did he die? A. I don't know.

Q. At whose house did he die at?

A. I didn't find out.

Q. Didn't find out? A. No, sir.

Q. Just a boy died on Duck is all you found out?

A. Yes, sir, I remembered at the time, too, because I was there, after the old man told me about it.

Q. What was his name? A. Big Pond.

Q. Big Pond? A. Yes, sir.

Q. Well, how in the world did you expect to make Tommy Atkins out of Big Pond?

A. Well, I was looking for a boy that was dead.

Q. You were looking for a boy that was dead, didn't make any difference what kind of a boy it was, you picked him up and brought him in, is that right? And when they told you Big Pond died up on Duck, you passed this Big Pond up to Page, didn't you? A. Yes, sir.

Q. Did he pay you for it?

A. He didn't pay me for it.

Q. Did you quit Big Pond, give him up as the wrong man?

A. Yes, sir.

Q. Wasn't the boy at all? A. No, sir.

Q. Now, who was the next boy you found to fit the matter?

A. The next boy was through an old lady over here by Coweta by the name of Byrd.

Q. Well, what was that boy's name?

A. His name was Atkins.

Q. Atkins? A. Yes, sir.

Q. What kind of Atkins, Tommy or Johnny?

A. I don't know, that was all I found out.

Q. Where did you get him?

A. Somewhere over in the neighborhood of Wagoner.

Q. Somewhere in the neighborhood of Wagoner? Did you report him? A. I did, sir.

Q. Did he pay you for that? A. No, sir.

Q. Didn't pay you for that? A. No, sir.

Q. Why didn't he pay you for that?

A. I don't know, he said he didn't need him any further.

Q. Didn't need him. Didn't need him; What else did you find out about the boy? A. That is all.

Q. You just found Big Pond? A. Yes, sir.

Q. And a boy up near Wagoner named Tom Atkins?

A. Yes, sir.

Q. Did you find out where Minnie was?

A. No, sir, I did not.

Q. Did you ever hear of Minnie through anybody?

A. Yes, sir, I have heard of her.

Q. Who did you talk to about Minnie, give me some of the people? A. Who did I talk to?

Q. Yes, about Minnie?

A. When I was trying to find her? Is that what you want to know?

Q. Yes, that is what I want to know?

A. I told you the old man Buck.

Q. The same fellow that found Big Pond on Duck?

A. Yes, sir.

Q. What did Buck tell you?

A. He didn't know a thing about her.

Q. And you gave that up. They paid you fifty dollars one time and seventy-five dollars at another, and how much did they pay you the last time?

A. I think that all together I got about two hundred dollars.

Q. About two hundred dollars for that information?

A. Yes, sir.

Q. Did anybody agree to pay you the two hundred?

A. No, sir.

Q. Did you ever speak to Mr. Page about the two hundred dollars? A. No, sir.

Q. Or Mr. Long? A. No, sir.

Q. Then, some fellow just got up in that office and gave you two hundred dollars? A. Not all at one time.

Q. Seventy five at one time, fifty at another and seventy five at another, makes two hundred dollars? A. Yes, sir.

Q. They just came and gave it to you and you never had any understanding about what you were to get? A. No, sir.

Q. Not a word? A. No, ,sir.

Q. Never had any conversation?

A. I am working for a man in Tulsa the same way now, getting up leases for him, he pays me when I get them.

Q. That is the way you work is it? A. Yes, sir.

Q. Have you ever been arrested for anything?

A. Yes, sir.

Q. What was it?

A. Unlawful possession of whiskey once.

Q. Anything else, tell it all? A. Yes, sir.

Q. What else?

A. I have been arrested for being drunk two or three times.

Q. Well, what else? Tell it all.

A. I was never convicted of anything.

Q. Oh, well, are you a man of a family?

A. My wife is dead.

Q. Got no children?

A. Yes, sir, got one girl ten years old.

Q. How came you to come down here to testify in this case?
A. I was subpoenaed.
Q. Who was the first man you ever talked to about what you knew in this case?
A. I have talked to Dr. Linkhart at Broken Arrow about it.
Q. Anybody else? A. Yes, sir.
Q Who else?
A. C. Lipscomb, of Tulsa, he is an ex-banker from Bixby.
Q. But when did you first talk with the Government counsel about this case? A. Today.
Q. Do you know how they found out you were a witness?
A. I don't.
Q. Do you know how they found out you knew about the case? A. No, sir.
Q. You don't know that? A. I do not.
Q. And you never mentioned it here until today?
A. No, sir.

Mr. Stuart: That is all.

Redirect Examination by Mr. German.

Q. When were you subpoenaed, Mr. Malcom?
A. I believe I was subpoenad about Friday last week.
Q. And when did you first come to Muskogee?
A. I came Saturday.
Q. Saturday? A. Yes, sir.
Q. Have you been here since then? A. Yes, sir.
Q. Have you been sick in bed since you have been here?
A. Yes, sir, I have.
Q. Been in bed some today? A. Yes, sir.
Q. And prior to today? A. Yes, sir.

Mr. German: That is all.

Recross Examination by Mr. Stuart.

Q. Did you ever talk to Betty Mann about this case, you know Betty, don't you? A. I know her.
Q. Yes, you talked to her about it, didn't you when you and Huck talked about it?
A. No, I didn't talk to her.
Q. Well, you have talked to her since then, Betty Mann?
A. Yes, I remember her.
Q. You have talked to her?
A. They wanted me to go and talk to her but I wouldn't approach her.
Q. Who wanted you to?
A. Mr. Page, I forgot about that.

Q. Well, let's have it?

A. He asked me if I knew Betty Mann and Mr. Rogers.

Q. Betty Mann and what?

A. Huck Rogers and then Mr. Page said she can fix the birth and death of this child, will you go and talk to her; and I told him I didn't know whether I would or not, because I wasn't very well acquainted with her.

Q. What was the reason you wouldn't go to her, you weren't afraid of her?

A. I wasn't well enough acquainted with her for that.

Q. You could ask her about the birth and death of the child, you wasn't afraid she would bite you?

A. I didn't do it.

Q. To approach her about the birth and death of the child?

A. To see if she could fix it.

Q. You didn't know old man Buck?

A. I knew him eighteen or twenty years.

Q. You know old man Buck is dead don't you? A. Yes.

Q. Yes, you know he is dead. Did you know Bartlett?

A. No, sir.

Q. Did you know Buell?

A. No, sir, not by name. I might know them if I could see them.

Q. What kind of a looking man was Buck, describe him?

A. He was about six feet high and would weigh three hundred pounds.

Q. Part nigger?

A. I have heard that he was half nigger.

Q. Now, you have told all you know about this case?

A. Yes, sir.

Q. And after you got your last seventy five dollars, who released you from your work, why didn't you keep working on?

A. Mr. Page, he didn't need this Tommy I had found, he had found a live one.

Q. Oh, you didn't tell that?

A. Didn't I tell that before? I think I did.

Q. You say Mr. Page said he didn't need this one?

A. Yes, he said he had a live one that could take care of himself.

Q. You had a dead one? A. Yes, sir.

Q. Where was your dead one?

A. About Wagoner some place.

Q. And he had a live one that could take care of himself?

A. Yes, sir.

Q. Did he tell you where that live one was? A. No, sir.

Q. Didn't tell you about that at all? A. No, sir.

(Witness dismissed.)

And thereupon, E. O. CURTIS was recalled for further cross examination and testified as follows:

Cross Examination by Mr. German.

Q. Mr. Curtis, since you were on the stand the other day you have obtained the account book showing the record of accounts, receipts and disbursements, and so forth, with reference to this Atkins property? A. Yes, sir.

Q. Mr. Curtis, I wish you would—Can you tell from your books how much money was realized from the sale of oil, actually collected from the sale of oil up to January 18, 1915?

A. I will have to get that ledger for that. You say up to January, 18th, 1915?

Q. Yes, sir.

A. We hadn't sold any up to that date.

Q. Hadn't sold any? A. No, sir.

Q. How much had been paid out up to that time on account of equipment on the lease?

A. Well, now, that statement has that, I haven't got the exact figures, I didn't take off any balance at that date.

Q. Take the statement that you have, you say you have the copy, take that copy. How much has been paid out on account of equipment. A. Equipment and labor?

Q. Actually disbursed, just on account of equipment?

A. Actually disbursed?

Q. Yes, sir?

A. This includes the amount contracted for.

Q. That is what I am driving at, what was contracted?

A. You will have to take the difference between the cash vouchers and the credit vouchers.

Q. Let's take the itemized statement that was introduced and tell us how we can find that?

A. The understanding I had that they wanted to find the amount of equipment in the lease and contracted prior to January 18, 1915.

Q. And a separate statement up to December 17, 1914?

A. Yes, sir.

Q. You have done that you say? A. Yes, sir.

Q. How can we tell from the itemized statement whether an item has been paid for, whether the items that you have listed has been paid for?

A. All of this has been paid for.

Q. I know it has now, but how can we tell whether this was on December 17, 1914, on your schedule A, whether an item had been paid for up to, or at a time prior to December 17. 1914?

A. Well, that is just a cash voucher prior to that time and what was not is a credit voucher.

Q. All right, the words Credit Voucher and Cash Voucher do not appear on this statement; that is all heiroglyphics, that is all Greek to me?

A. They are referred to as check numbers.

Q. Where the item begins with the letters "C V," that is two letters of the alphabet? A. Yes, sir.

Q. What do those letters stand for?

A. Credit voucher.

Q. Where the items begin with those two letters, it is an item that is not paid for on the date indicated on this statement? A. No, sir.

Q. But where the item begins with a number, such as 1633, that means that the item is paid for on the date shown on this voucher? A. Yes, sir.

Examination by the Court.

Q. Now, what is the credit voucher, why a credit voucher?

A. In case on an account where we buy equipment and don't pay for it, we set it up on the books as accounts payable; although the money may not be paid for as a general rule for thirty or sixty days.

Q. To what does the credit voucher relate, to that item on the book?

A. Well, the credit, if we buy pipe it is charged against the lease and credit is given the concern to whom we owe the money.

Q. Is that credit to this concern that sells you material what you refer to as the credit vouchers?

A. Yes, sir, that is what we set up the credit with.

Examination by Mr. German.

Q. Then, that would be paid later on?

A. Yes, sir, or no certain date, you know, at any time.

Q. It simply shows that you owe the party from whom you purchased that equipment, that amount of money?

A. Yes, sir.

The Court: A credit voucher stands for a liability incurred but not paid?

A. Incurred, but not paid, yes, sir.

Q. Now, Mr. Curtis if you will look at this account you will notice that prior to the month of October—No, prior to the month of November, with the exception of one sixty-five-cent item, the only item incurred, whether paid for or not, appeared to have been incurred in August, isn't that true?

A. Prior to what date?

Q. Prior to the month of November, 1914?

A. That is the only one I see here.

Q. There are two items in here dated October 25th, 1914, credit voucher items, for a tank, *stell* tank, fifty-five thousand steel tank? A. Yes, sir.

Q. I don't know whether I asked you where those tanks were placed or not. I believe I did, too, and you said that tank farm north of this property? A. Yes, sir.

Q. Do you know where that farm is, don't you?

A. I can give you a description of it.

Q. You have been on it? A. I haven't been on it, no.

Q. Now, Curtis, were you acquainted with this matter in 1914? Were you keeping books at that time?

A. I started the first of December.

Q. December 1914? A. The first of December, yes, sir.

Q. Where was oil run from to these tanks at the start?

A. Run from the Thomas Atkins lease and run one tank, I believe, from the Dewey Hawkins.

Q. Where was the Dewey Hawkins lease?

A. South of that.

Q. South of the Atkins—that is the Gem Oil Company lease? A. No, that is owned by the trustee.

Q. Who is the trustee? A. Mr. Page.

Q. Trustee for whom?

A. Trustee for Mr. Kinney and Mr. Kingsbury and Mr. Josey and Mr. Delaney and himself.

Q. That property was producing oil and had several wells on it at the time you began to keep these books, wasn't it?

A. At the time I went to keeping these books, they were drilling in number one, and number two wells.

Q. Then they discovered oil and drilled other wells?

A. Yes, sir.

Q. In other words they started the operation of the Dewey Hawkins lease about the time they did the Atkins lease?

A. Just about the same time, yes.

Q. And they run oil from both leases in this tankage?

A. Yes.

Q. You said they run oil from the Hawkins lease into only one of these tanks?

A. The best I remember; I think it was only one tank.

Q. Don't you remember on reflection that they run oil into two of those tanks from the Atkins property after the tanks were put up, and run oil into all three of the tanks from the Hawkins property?

A. I don't remember just exactly as to that but I think the total that the Hawkins run was about fifty-thousand barrels

Q. What did they do with the Hawkins then?
A. Ran it into the lines.
Q. When did they begin running it into the line?
A. I can't give you those dates.
Q. Well, do you remember about when it was, don't you?
A. I think about 1915, I am not sure.
Q. I notice items in this account charged up to the Atkins lease, the price of that tank farm? A. Yes, sir.
Q. Well, when did you decide that should be charged to the Atkins lease and not charged to the Hawkins lease?
A. They decided that when they got the tank farm.
Q. What was to be done for taking care of the Hawkins lease oil?
A. We were to pay storage on it and did pay storage.
Q. The Hawkins lease paid storage to the Atkins lease?
A. Yes, sir.
Q. On your account books? A. Yes, sir.
Q. When was that arrangement started?
A. Well, as I say I don't remember the date when they started running it in there but the first, the trustee I think, was going to buy a two-fifth interest.
Q. In the tank farm?
A. In the tank farm, but didn't do it, and the Tommy Atkins afterwards took the whole farm and they paid storage.
Q. Now, when was that arrangement made?
A. I can't give you the exact date but shortly after the property was purchased.
Q. After the deed was obtained, do you mean?
A. Yes, sir.
Q. When was that deed obtained?
A. I think it was December 18th, I am not sure; 1914—December 16th, 1914.
Q. Who is the deed to?
A. Frank Long—F. B. Long as trustee.
Q. Trustee for whom?
A. F. B. Long had it there, trustee for the Atkins lease.
Q. Does the lease specify who the trustee is for?
A. Specified the Atkins lease.
Q. Well, who was he trustee for?
A. I don't know; I never made the deed.
Q. Well, wasn't he trustee for the Gem Oil Company?
A. No, sir.
Q. Wasn't he, then, to be trustee for whatever interest might use that tank farm?
A. Well, I suppose he would yes.
Q. Now, the deed to the tank farm is to Frank B. Long but you charged the cost of it upon this account against this Atkins lease? A. Yes, sir.

Q. These steel tanks placed on there were placed on the farm which was deeded to Frank Long, trustee, aren't they?

A. Yes, sir.

Q. Yet you charged the cost of them up to the Atkins lease?

A. Yes, sir, when we subsequently sold them they were credited to the Atkins lease.

Q. Oh, you have sold the tank farm? A. Yes, sir.

Q. How long since?

A. Sold it a tank at a time. I think the last one was sold in August 1916, I wouldn't be sure about it.

Q. You mean you sold seperate tanks? A. Yes, sir.

Q. With the acreage on which they were situated?

A. Yes, sir.

Q. Have you still any of those tanks? A. No, sir.

Q. All sold? A. All sold.

Q. Do you know whether they brought approximately the cost of them?

A. They brought more than the cost of them.

Q. Brought more than they cost? A. Oh, yes.

Q. Now, Mr. Curtis tell us when the tanks, the first tanks that were put on this tank farm, when the first item of payment was made on account of the purchase of those tanks? I don't care for the amount at this particular time, but the first item of payment?

A. For the steel tanks themselves?

Q. Yes?

A. Now, the first charge against them was on December 28th, but that was charged against the Petroleum Iron Works for freight.

Q. Yes, but when was the first item of payment made?

A. The first cash payment was May 14th, 1915.

Q. May 14th? A. Yes sir.

Q. Mr. Curtis, that is about twenty-two thousand five hundred dollars of the fifty-one thousand dollars of items you have listed in your schedule A here— those tanks are?

A. I believe it is twenty-two thousand five hundred, isn't it?

Q. Yes, sir, twenty-two thousand five hundred; and the rest is for labor and incidental equipment on the lease?

A. Yes, sir.

Q. You have not figured, have you so that you are prepared readily to testify to it, as to how much was paid out on account of this other equipment and labor prior to the 18th of January 1915?

A. Well, it will be the difference; you mean between those——

Q. A matter of computation, isn't it? A. Yes, sir.

Q. The way you explained a while ago. Now, this rig, the first item in this account, credit voucher 55, August 6th, 1914, to one rig from C. B. Wertzberger, eleven hundred and sixty-five dollars? A. Yes, sir.

Q. Did you know where they *ot* that rig?

A. I suppose Mr. Wertzberger built it; he is a rig builder.

Q. Wasn't there a contract made for the drilling of that well?

A. Well, the well was drilled by contract, all of them.

Q. Well, how come *to* rig to be charged in the lease?

A. That is not included in the drilling contract.

Q. Does the owner furnish the rig? A. Oh, yes, always.

Q. Always? A. Yes.

Q. You don't know where they got that?

A. Why, Mr. Wertzberger built it.

Q. Built it? A. Yes, sir.

Q. Now, do you know when it was paid for? A. Yes, sir.

Q. Will you tell us?

A. Yes, sir, that rig was paid for October 10th, 1914.

Q. October 10th, that eleven hundred and sixty-five-dollar item? A. Yes, sir.

The Court: Just what is the point you have in *kind*?

Mr. German: There is just one other question I will ask and will have covered the whole matter. If I may ask this question before I answer Your Honor, please sir?

The Court: Alright.

Q. The payments that were made on account of this equipment and labor, were made out of the production from the lease, were they not?

A. Why, not at that time, no; the lease didn't have any production.

Q. Up to the time the lease began to produce all payments were made out of the production were they not?

A. Not up to the time.

Q. Well, as soon as you got any production?

A. Oh, yes.

Q. Have you any way of telling us when you made your first sale?

A. Yes, sir, the first sale was made February first to the Texas Company.

Q. 1915? A. Yes, sir.

Q. How much was realized from that sale?

A. Forty seven hundred and eighty dollars and thirty-four cents.

Q. Up to the time of the Receiver's appointment, March

8th, 1914, how much oil had been sold or how much had been realized from sale?

A. Up to the time that you mean the receiver was appointed?

Q. Yes, March 8th?

A. Eighteen hundred six dollars and ninety cents, the only check we had in at that time.

Q. I mean the total.

A. That is the only one we had at that time; that was carried on my books at the time because we turned that check over to the receiver.

Q. I understood there was a four thousand item there?

A. There was only one that we got credit for.

Q. Only one between that time and March 8th? A. Yes, sir.

Q. Approximately, wasn't it about eight thousand, a hundred and ten dollars?

A. Eight thousand one hundred and ten dollars and thirty-one cents.

Q. Yes? A. Yes, sir.

Q. Isn't it a fact that on account of the equipment on this property there has been paid only the sum of seven thousand three hundred and seventy-six dollars up to March 8th, 1915?

A. Well, I can't say as to that.

Q. And that it was all paid out of the production—out of sale*d* from the productions?

A. I can't say as to that because the entire statement there, I haven't looked that up.

Q. Can that be figured—the question I asked, may it be arrived at from the data you have filed? The itemized statement? A. No.

Q. Can you figure that for us?

A. It will take a good little *q*hile to do that; I have to go through all my books; I can figure it though.

The Court: What is the point?

Mr. German: The question is this; that this lease cost the defendants after they obtained it, nothing except what they paid out of production from it.

The Court: Well, how does that affect this case? This phase of this case?

* * * * * * * * *

The Court: Well, I am not determining, I am not passing upon that matter now; I am not determining to what extent if any it will affect the decision of this case. I just wanted to find out what counsel had in mind.

Q. Will you figure that out for us, Mr. Curtis?

A. The exact amount spent up to January 18th, or December 17th?

Q. Well, January 18th; on both dates, December 17th and January 18th. A. Yes, sir.

Q. Actually paid out for equipment and labor.

A. Yes, sir.

Q. Separate equipment and labor, too, will you?

A. Yes, sir.

Mr. Stuart: You mean cash paid out and that portion paid out of the production of the lease?

Mr. German: Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Mr. Curtis, now, I want the Court to clearly understand the methods of doing this business. When you order a piece of goods out there, whether a tank, tubing, casing, or whatever it may be, from somebody, we will say an eastern firm, and order it shipped in, when the invoice comes in, what do you do as bookkeeper? What do you do with that invoice?

A. Well, the first thing I do is to send it out to the field so that we may have him check the material.

Q. Alright, but when you put credit on the books?

A. After it has gone to the field and been O K'd by the superintendent and as soon as I can get to it.

Q. Why do you send the invoice to the field?

A. To check it up and show that it is there.

Q. To check up the shipment and see if it got there or not?

A. Yes, sir.

Q. Then they send in this back to you? A. Yes, sir.

Q. And then you enter it? A. Yes, sir.

Q. Now, you keep the date of every order you make, do you? A. Yes, sir.

Q. Every order of material? A. Yes, sir.

Q. And how long have you been out there?

A. Since the first of December 1914.

Q. If a man purchases a tank, has he either got to pay cash or have guilt edge credit, hasn't he? A. Yes, sir.

Mr. German: I object to that.

The Court: Now, it is perfectly clear to me that so far as these defendants who took charge of that lease are concerned, if they incurred liability whether they paid it at once or paid it six months in the future, they incurred the liability and it amounted to the same thing as cash, there is no question about it and it is just as much evidence of good faith if they incurred the indebtedness that they had to pay as if they paid cash.

Q. Then these liabilities that you have shown on your books prior to December 17th, 1914 and January 18th, are liabilities incurred and entered as such? A. Yes, sir.

Q. Even though they had not been paid for? A. Yes, sir.

Witness dismissed.

And thereupon, court recesses until 9:30 o'clock June 7th, 1917.

And thereafter, and at 9:30 o'clock A. M., June 7th, 1917, court convened pursuant to adjournment and further proceedings herein were had as follows:

Mr. German: Your Honor, while we are waiting, yesterday evening Mr. ..... and I went over to the hotel and Minnie had on her low heeled shoes, and we measured her and she measured five feet six inches. I just want to state that in the record.

Mr. Stuart: How much taller were you than Minnie, Mr. German?

Mr. German: With her low heeled shoes on, about an inch.

Mr. Stuart: How much taller with your high heel shoes on?

Mr. German: I didn't have them on, Judge. You can measure her now again, if you care to.

The Court: Well, we haven't Mr. German in the record, that is the trouble.

Mr. Stuart: If Your Honor please, I understood that he measured the difference between himself and——

Mr. Linebaugh: Is it agreeable to counsel for the record to show that Minnie Atkins is five feet six inches tall with low heeled shoes on?

Mr. Stuart: And in as much as Mr. German is pointed out by one of the witnesses, will it be admitted that Mr. German is five feet seven?

Mr. German: No, sir, because I am not.

The Court: Well, we can get at this without encumbering the record with so much—Minnie's exact height in ordinary low shoes, Minnie is five feet six inches?

Mr. Hanford: That is right, Your Honor.

The Court: Alright.

And thereupon, C. H. (HOOK) ROGERS, a witness produced on behalf of the complainant, being first duly sworn under oath testified as follows:

Direct Examination by Mr. Linebaugh.

Q. You may state your name. A. Hook Rogers.
Q. What are your initials? A. C. H.
Q. You are commonly known as Hook Rogers?
A. Yes, sir.
Q. How old are you? A. 35.
Q. Where do you live? A. Collinsville.
Q. Are you acquainted with Mr. Frank B. Long?
A. Yes, sir.
Q. Are you acquainted with Betty Mann? A. Yes, sir.
Q. How long have you known Betty Mann?
A. Oh, for the last 20 years, I guess; or more—twenty-five.
Q. Your relations with her are friendly are they?
A. Yes, sir.
Q. Did you make or begin any investigation with reference to the allotment in the Creek Nation known as the Tommy Atkins allotment? A. With her?
Q. Well, did you begin any yourself with any other person; did you make any investigation concerning the Tommy Atkins allotment? A. Yes, sir.
Q. Who, if any person, did you first associate with in the investigation?
A. The first one in the Tommy Atkins case? The first ones I done work for or with in the Tommy Atkins case, you mean?
Q. Yes, who did you first associate with in that investigation?
A. I don't hardly understand you—the first one or the last ones?
Q. Well, did you associate at any time in that investigation with Betty Mann? A. Yes, sir.
Q. Now, was she the first person you did associate with in that investigation? A. Yes, sir.
Q. You may state why you associated with Betty Mann with particular reference to this Tommy Atkins allotment?
A. I don't hardly understand what you want.
Q. Well, do you know whether Betty Mann was a former student at Carlisle School? A. Yes, sir.
Q. Do you know whether Minnie Atkins was a former student at Carlisle School? A. Yes, sir.
Q. Now, in company with Betty Mann did you make any trip to Leavenworth, Kansas? A. Yes, sir.

Q. In Leavenworth, in your trips to Leavenworth, Kansas, when do you remember when they first begun to be made, when you went there the first time?

A. In January, 1914, I believe it was.

Q. Who went with you, if any person? A. Betty Mann.

Q. What investigation did you make?

A. Well, we went to the City Physician, I believe, there.

Q. What did you find out?

A. Well, we found out where Minnie had a child.

Q. Did you find the name of that child? A. Yes, sir.

Q. What name was it? A. Robert Lee, I believe.

Q. Robert Lee Peterkin? A. Yes, sir.

Q. Did you make any effort to locate the man named Peterkin? A. Yes, sir.

Q. What efforts did you make to locate him?

A. Went out to the old fort and inquired of one of the old sargeants I believe it was——

The Court: Speak up loud enough for us all to hear.

A. Fort Leavenworth, the old fort where the soldiers were, and found one of the old sargeants, I suppose it was a sargeant.

Mr. Stuart: We object to this. It is not rebuttal.

The Court: Well, we will see what it is.

Q. Were you able to locate Peterkin? A. No, sir.

Q. What other places did you go to if any in Leavenworth?

A. Oh, we went to a number of places there.

Q. Well, name some of them?

A. Well, we went to the Court House, one place, and we couldn't find no records there.

Q. Any other place?

A. Yes, we went to the undertaker's office, I believe it was.

Q. Any other place?

A. Went to lots of places, I can't remember all where we did go, we went up to all old families we could hear of.

Q. Did you find out anything on that trip about Minnie having been there sick at any place? A. Yes, sir.

Mr. Stuart: Your Honor, we object to this because it is not rebuttal.

The Court: Well, I suppose this is leading up to a conversation which this witness had with probably Mr. Long.

Mr. Stuart: Well, he can ask the impeaching question.

The Court: Now, he stated that he went to places in Leavenworth and didn't find out anything.

Mr. Linebaugh: There is one other place I am seeking to show that the witness went; I am asking if he found out about Minnie being anywhere sick.

A. We found that at the hospital.
Q. Found that at the hospital? A. Yes, sir.
Q. Did you learn at the hospital——

Mr. Linebaugh: Mr. German just called my attention to the fact that the witness testified he did find out one place, that is that Minnie gave birth to a child named Robert Lee Peterkin.

The Court: Yes.

Q. State what you found out by inquiry or otherwise at the hospital with reference to whether Minnie was there in childbirth or for some other trouble?

Mr. Stuart: Your Honor, this is not rebuttal.

The Court: We will see where it is leading. He may answer.

Mr. Stuart: Exception.

A. No, sir, I found out she didn't give birth to a child at the hospital.
Q. Now, after that time, did you have any dealings with Mr. Frank B. Long concerning this Tommy Atkins allotment?
A. Yes, sir.
Q. What were those dealings, that is what trade if any did you and Mr. Long make with reference to this allotment?
A. Well, Mr. Long agreed to give me a fourth interest in it if I could find Minnie Atkins for him.
Q. State when that conversation with Mr. Long was had with which that trade was made with you?
A. Well, my first conversation with him was in March, I believe, 1914, March or April.
Q. Now, state whether or not you talked with Mr. Long at that time with reference to your and Betty Mann's visits to Leavenworth, Kansas?
A. Yes, sir, I talked to him about it.
Q. You may state whether or not you told him at that time what you had learned at Leavenworth with reference to Minnie Atkins.

Mr. Stuart: We object to that because it is not the proper impeaching question.

The Court: Mr. Long is one of the parties here whom it is charged by the Government were involved in what they contend was a scheme to manufacture testimony, and I suppose it is upon that theory that it is being offered;

Mr. Long having testified with regard to transactions with this man. Now, they seek to show by this man what those transactions were. I presume that is the purpose.

Mr. Stuart: Well, I can't see how it can be admissible, Your Honor.

The Court: This would only be rebuttal if this witness' testimony controverts some statement which Mr. Long has made in evidence here with regard to his transactions with this witness, and it will be confined to that.

Mr. Linebaugh: Our judgment is that this testimony does controvert it.

The Court: Mr. Long has been interrogated about what he did with this witness?

Mr. Linebaugh: Yes, sir.

The Court: Now, I assume that you propose to show by this witness that something different transpired between them.

Mr. Linebaugh: And also we expect to show that Mr. Long, prior to the making of his memorandum in Seattle, prior to his association with Betty Mann, knew the facts with reference to the birth of Robert Lee Peterkin and with reference to the fact that Minnie Atkins was a patient in the hospital, but at that time did not give birth to a child, all of which Mr. Long has denied.

Mr. Stuart: Well, the difficulty about that is this, Your Honor——

Mr. Linebaugh: All of which Mr. Long has denied.

Mr. Stuart: I see where this may lead to and keep this case on for a week and for that reason——

The Court: Why wasn't this man put on in chief?

Mr. Linebaugh: For this reason, if the Court please: the Court will recall, I will just mention a portion of Mr. Long's testimony that now recurs to me: that is at the time of the making of the memorandum, he believed the information which he said Minnie Atkins then communicated to him, to be true, and acted upon that, that he believed that that was the correct information. Now, this is proper rebuttal it occurs to us of that portion of Mr. Long's testimony. Further, if the Court will recall, Mr. Long negatived any knowledge whatsoever or any information that he had obtained prior to his Seattle trip with reference to Robert Lee Peterkin, with reference to any information concerning a child named Robert Lee Peterkin. He never had heard of that child if I recall his testimony correctly, until after the Seattle testimony, and that he assumed

that the information communicated to him by Minnie Atkins, which he says was not communicated with reference to giving birth to the child in the hospital, was not true; in reference to these two points we offer to show by this witness that Mr. Long, long prior to that time, had received information to the contrary.

The Court: The objection is overruled and exception noted.

Mr. Stuart: We except.

Q. I believe the last question I asked you was whether or not in this conversation you communicated to Mr. Long the information that you had obtained at Leavenworth with reference to the birth of the child Robert Lee Peterkin and also with reference to Minnie Atkins being in the Hospital, and the fact that she was in there for child birth? A. Yes, sir.

Q. Now, Mr. Rogers, do you know who brought Betty Mann and Frank B. Long together? A. I did.

Q. You did? A. Yes, sir.

Q. State the circumstances of your getting them together. What Mr. Long said to you with reference to her activity and what you said to him.

A. Well, Frank told me if I could get Betty——

Mr. Stuart: The same objection, Your Honor, and the same exception.

The Court: Well, we will not go over that. This witness is now going in to some matter that might have been gone into in chief. Now, you have shown that he procured certain evidence there, or information in Leavenworth. Previous to showing that he stated that to Mr. Long. You may do that; we are not going to open up this case now.

Mr. Linebaugh: No, there is one expression *ised* in this conversation that I take it is clear- rebuttal, and I would like to state to the Court not in the presence of the witness unless the Court desires.

The Court: Well, it is not necessary to go over all that conversation.

Mr. Linebaugh: No, just simply what Mr. Long said to him with reference to procuring the services of Betty Mann.

The Court: Well, the objection is overruled and exception noted; go into it to that extent.

Q. Just state that conversation between you and Frank

Long in reference to procuring the services of Betty Mann for Frank Long.

A. When I and Frank and her got together on this deal?

Q. Yes.

A. Well, I told Frank I could find Minnie Atkins; that I couldn't find her myself but I had a party that was going to get her; had her located. Then is when he offered me a fourth interest in the deal if I could turn Minnie Atkins to him, so I taken Frank Long to Betty Mann.

Q. Now, what statements if any were made in that conversation? A. How is that?

Q. What statements if any were made in that conversation as to Betty Mann's then employment?

A. Well, she was working for H. U. Bartlett.

Q. No, just tell the conversation between you and Frank Long in reference to her then employment, if anything about her employment was said.

A. I don't understand the question.

By the Court.

Q. What passed between you and Mr. Long as to what Betty Mann was then doing? What was said between you? Did you tell him what Betty was then doing? A. Yes, sir.

Q. What did you tell him?

A. I told him she was then working on this case.

Q. What did he say——

Mr. Linebaugh: Will the Court permit me to ask a question just there?

By Mr. Linebaugh.

Q. Did you tell him who she was working for? A. Yes.

Q. Tell the conversation.

A. I told him she was working for H. U. Bartlett.

Q. Then what did he say?

A. He wanted to know if I could get her to turn the deal to him if she found Minnie Atkins, and I told him I could.

Q. How long had you known Mr. Frank B. Long before this? A. Up to that time?

Q. Yes?

A. Why, I don't know, a year or two or three or four, I don't know; I knew him when he worked in the Department.

Q. Were you well acquainted with him? A. Yes, sir.

Q. How long had you been working for him? Had you done any other work for him? A. Up to that time?

Q. Yes? A. No, sir, not until the Atkins case.

Q. Not until the Atkins case came up? A. No, sir.

Cross Examination by Mr. Stuart.

Q. Mr. Rogers are you under arrest now for counterfeiting? A. Yes, sir.

Q. Where, in what court? A. In the Federal court.

Q. This court here? A. Yes, sir.

Q. Now, when you went to Leavenworth, you say—did you go with Josey?

A. I went with Josey one time, yes, sir.

Q. Did you take Josey around to any of these places that you speak of? A. No, sir.

Q. Why didn't you? A. Because there was no use.

Q. No use? Well, he didn't go with you then. You went up there with Josey to find out about these parties, didn't you?

A. He taken me up there and he didn't tell me what we were going up there for until we got to Leavenworth.

Q. Well, you never *shoed* him any of these places?

A. No, sir.

Q. You took Josey to Mary Smith, didn't you?

A. No, sir.

Q. You didn't take Josey to Mary Smith?

A. Never went to talk to anyone.

Q. Are you certan of that now; certain that you didn't take Josey to Mary Smith and talk to her?

A. If I and Josey ever talked to anyone in Leavenworth, I don't know, unless it was someone there in the hotel—some man.

Q. How was Minnie registered at the hospital?

A. I don't know; I suppose she was registered as Minnie Atkins. I didn't look at the records there; I talked to the Sisters.

Q. You didn't look at the register?

A. No, sir, I didn't.

Q. You didn't tell Josey about Robert Lee Peterkin?

A. Well, I talked to him——

Q. You never; you went up there with him and he paid your way, didn't he? A. Yes, sir.

Q. Did you tell him anything about Robert Lee Peterkin?

A. No, sir, I told him there was no use to go over that evidence, I had a wire——

Q. Never mind about the wire; did you tell him anything about Robert Lee Peterkin? A. No, sir.

Q. You say you were entitled to one-fourth interest in this property? A. That is what he was to give me.

Q. But you didn't get it? A. No, sir.

Q. But you did sign this receipt, didn't you?

A. Yes, that is my signature.

Q. That is a receipt in full for everything you had done or might do now, or after, isn't it? A. Fifty dollars.

Q. Yes, look at it, and see how it reads.

A. I see how it reads up there; this is fifty dollars they give me but I don't know what it is for.

Q. You signed that receipt?

A. Certainly, a man wouldn't sign a receipt for fifty dollars in a case like that.

Q. You signed it, didn't you?

A. Certainly I signed it.

Q. And you read it before you signed it?

A. I didn't understand it was for fifty dollars full receipt.

Mr. Stuart: Just identify this please.

And thereupon letter referred to by counsel was marked for identification, Defendant Minnie Atkins Exhibit B-26.

Mr. Linebaugh: This is immaterial.

Mr. Stuart: Your Honor, he is claiming a fourth interest and I am impeaching him.

The Court: It is entirely material on cross examination; if he made full receipt that may be shown.

Mr. Stuart: (Reading) Gem Oil Company, Tulsa, Oklahoma, Gentlemen:—Receipt is hereby acknowledged of fifty dollars in full payment for all claims I have, or may have in future, in any way of commission, or claim of any other character, for work done and for information furnished on oil and gas lease executed in your favor by Minnie Folk, et al., covering—and then follows a description of the land. In addition to this receipt, you are hereby authorized and empowered in consideration of payments heretofore made me, to make settlement with Mrs. S. E. Mann——

Q. You scratched that out, didn't you? A. Yes, sir.

Q. And then you signed that instrument?

A. Yes, that is my signature.

Q. What kind of a looking place was this Sister's Hospital? A. I couldn't tell you.

Q. Describe the building?

A. I couldn't describe the building.

Q. Well, but I want you to describe it?

A. There wouldn't be any use for me to try.

The Court: Did you go to the hospital up there?

A. Yes, sir.

The Court: Well, what did the hospital look like?

A. Well, I have been to a number of hospitals and I couldn't describe the hospital.

Mr. Stuart: Well, that is all.

Redirect Examination by Mr. Linebaugh.

Q. Mr. Rogers, what has been your relations—I will ask you this: Have your relations with Betty Mann been extremely friendly for some time?

A. Yes, sir, she is a relation of mine.

Q. State whether or not Mr. Long was acquainted with that situation? A. Why, yes, he was sure.

Q. Now, who prepared this receipt and offered it to you for signature?

A. I believe that was—I disremember his name, he was a clerk in the Gem Oil Company.

Q. Mr. Maddox? A. Maddox, seems to *be* it was Everly.

Q. Is the F. B. Long, who witnessed your signature to this receipt, the same F. B. Long about whom you have given testimony? A. F. B. Long, I guess it is the same one.

Q. That is the only Mr. Long that you knew

A. Yes, sir.

Q. The only F. B. Long that you know, is it?

A. Yes, sir.

Q. Now, just state to the Court, if you will, what your relations were and had been with Mr. Frank B. Long up to the time that he went to Seattle, as to whether or not they had been friendly, extremely friendly?

A. Why, yes, had up to that time.

Q. Up to that time they had been extremely friendly, had they? A. Yes, sir.

Q. Judge Stuart has inquired about your trouble, here, you have been unfortunate in having had charged lodged against you prior to this time, haven't you? A. Yes sir.

Q. A good many of them prior to the time you had any relation with Mr. Long, hadn't you? A. Yes, sir.

(Witness dismissed.)

And thereupon, D. G. ELLIOTT was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. You may state your name? A. D. G. Elliott.

Q. Where do you reside, Mr. Elliott?

A. Tulsa, Oklahoma.

Q. What is your profession? A. Attorney.

Q. How long have you resided at Tulsa?

A. Three years last January.

Q. Where did you reside before that?

A. Claremore, Oklahoma.

Q. At Claremore? A. Yes, sir.

Q. How long have you lived in Oklahoma, or Indian Territory? A. Eighteen years.

Q. Were you at Claremore all the time before you went to Tulsa?

A. No, sir, I was at Chelsea, went from Chelsea to Claremore.

Q. Mr. Elliott, do you know Charles Page, of Tulsa?

A. Yes, sir.

Q. When did you first know him personally?

A. I think it was in February, 1914, when I first met him, either February or March.

Q. Did you have occasion to have some business transactions with him? A. Yes, sir.

Q. Relating to some Sand Springs matters?

A. Sand Springs Machine Company.

Q. Sands Springs Machine Company? A. Yes, sir.

Q. Without going into any details, about how long from the time you began the negotiations relating to that matter until you closed it?

A. The last of February or first of March until about the middle of September, 1914.

Q. In the summer of 1914, did you have occassion to take up with him any matters relating to this machine works?

A. Yes, sir.

Q. You saw him very frequently as I understand it from February until September with reference to the matter?

A. Yes, sir.

Q. Did he in the summer make any statements to you with relation to the Atkins case? A. Yes, sir.

Q. Where was that? A. At Sand Springs.

Q. Where at Sands Springs?

A. It was where they serve ice cream and drinks.

Mr. Stuart: Mr. German, did you lay the impeaching question for this?

Mr. German: No, sir. Statement merely of Mr. Page.

The Court: Has he been interrogated about it?

Mr. German: No, sir.

The Court: Is there any evidence of the witness which you propose to controvert?

Mr. German: Merely we expect to show by this witness statements of Mr. Page which we contend constitute declaration showing what Mr. Page was doing with relation to this Atkins case.

The Court: And which you contend, I assume, tends to establish your charge that he was fabricating a case?

Mr. German: Yes, sir.

The Court: It therefore would be a part of your case in chief.

Mr. German: No, I think this, your Honor, we could as well have introduced all our evidence with relation to the fabrication in rebuttal. We had a right to introduce it as a part of our case in chief or in rebuttal. We had no way to know whether the defendants would put on any evidence in this case. We, under the authorities, had a right to introduce it as a part of our case in chief, but could just as well reserved it all for rebuttal. Now, this is a short witness.

The Court: Well, proceed. Go on and ask your questions.

Mr. Stuart: I will except to the ruling.

The Court: Well, I want to get the record. There has been no question asked.

Mr. Stuart: He has asked the question if he had any conversation—I will wait until he asks the question.

Mr. German: Your Honor, we will pass over this conversation and pass to one that is distinctively rebuttal.

The Court: All right.

Q. Mr. Elliott, we will pass that conversation I was asking you about. Did you later on have a conversation with Mr. Page with reference to the Atkins case? A. Yes, sir.

Q. When was that?

A. That was sometime in the summer of 1915, possible a year afterwards.

Q. Possibly a year after the first conversation?

A. Yes, sir.

Q. Where was it?

A. Mr. Page's office in Tulsa, First National Bank Building.

Q. State whether about that time you were again taking up the matter of this Machine Works proposition?

A. Well, that was about the time it was practically closed.

Q. Who bought that out, Mr. Page?

A. Mr. Page bought the machinery, his men did.

Q. Now, did you go to his office on account of the Atkins case, when you went there in the summer of 1915, did you take up with him the Atkins case in any way?

A. During that trip—I was there a couple or three times, and during the times I took up the Atkins case with him.

Q. Did you know Mr. Trueman Nixon at the time?

A. Well, I just knew him, I had met him a number of times.

Q. What did you take up with Mr. Page with reference to the Atkins case at that time, state the conversation between you and him?

A. I stated to Mr. Page—At that time Mr. Wrightsman was in the deal and I asked Mr. Page if he would buy Mr. Wrightsman out or would sell out, and he said he would not; and the same conversation we talked probably fifteen or twenty minutes.

Q. Yes?

A. Something was said about Trueman Nixon having a Tommy Atkins, and he said he had one of his own, he could win it with the Tommy he had. I said—I think he used the words, "He wouldn't give a damn cent to sell out or buy out."

Mr. Stuart: How was that? I didn't catch that.

Q. State it over again.

A. He said that he understood that Trueman—that Mr. Nixon had a Tommy Atkins, and he said he had one and he wouldn't give a damn cent to give out or buy out.

Q. Now, did he say whether it was a live Tommy or not?

A. No, sir, he didn't say.

Q. He simply said that he had a Tommy? A. Yes, sir.

Q. And the other that you have stated? A. Yes, sir.

Cross Examination by Mr. Stuart.

Q. What is your name? A. *B.* G. Elliott.

Q. Elliott? A. Yes, sir.

Q. How did the Government ever know that you had this conversation with Page?

A. Well, sir, I don't know.

Q. What?

A. I don't know; I only talked to one man about it.

Q. You were there in business with Page, trying to get the money from him in the machinery work that—machinery business?

A. No, I was representing a machine company.

Q. Well, you had a business dealing with him?

A. Yes, in 1914.

Q. And it turned out to be a losing venture, didn't it?

A. Well, I guess it did.

Q. Your stuff is piled up out there now?

A. I don't know.

Q. And you went to Page and tried to get him to advance some more money and he wouldn't do it, didn't you?

A. No, sir, I didn't.

Q. He wouldn't advance any more?

A. I don't know; I didn't have anything to do with that part of it.

Q. Where was this conversation you say you had your various talks with Page about your client going in business with him? A. In 1914.

Q. What was that business—let's have it.

A. Organizing a machine company.

Q. A machine company where? A. At Sand Springs.

Q. Now, who did you represent?

A. I represented Mr. George B. Swope.

Q. George B. Swope; did George want to start a company, a machine company?

A. He owned the machinery and the patents for a gasoline engine and wanted——

Q. Did he want to start a company?

A. No, he didn't particularly want to start it, he just wanted to bring what he had——

Q. Wanted to plant what he had at Sand Springs?

A. Yes, sir.

Q. And he wanted Mr. Page to go in with him, didn't he?

Q. He didn't ask Page to put up some money?

A. Not at that time, no, sir.

Q. Didn't he ask at any time to put up some money?

A. No.

Q. Don't you know that Page did put up some money?

A. That was after he had taken——

Q. It don't make any difference whether it was after or before, did he put up some money?

A. Yes, he put up some money.

Q. And the venture did not prove a success, did it?

A. I don't think so.

Q. And he wouldn't put up any more money?

A. I don't know about that.

Q. You know the stuff is piled up out there now?

A. I don't know.

Q. Haven't you been out there to see it? A. No, sir.

Q. You were negotiating this matter with Page, you were representing George Swope? A. Yes, sir.

Q. And you were talking with him about putting up this business, starting it in Sand Springs? A. Yes.

Q. And while those negotiations were going on you had this conversation with Page?

A. Which conversation do you speak of?

Q. This conversation about he would give a—I don't know what it was.

A. No, that was long afterwards.

Q. How long after? After you quit Sand Springs business? A. Possibly a year.

Q. Possibly a year? You just dropped in his office at random? A. No, only when I had occasion to go there.

Q. Well, how did you happen to drop in there on this particular day that you had this conversation?

A. That was after the Sand Springs company had closed out——

Q. It don't make any difference whether it was after or before, tell me——

The Court: Well, let him answer.

A. The fact is, I first called Mr. Page up and made an appointment with him to meet him in his office and in that conversation I had taken up the matter—I brought it up myself, whether he would sell out or buy out in the Tommy Atkins deal.

Q. Now, tell exactly what he said.

A. He asked me if I knew Trueman Nixon and I said no, that I wasn't particularly acquainted with him, I knew him; and Nixon has got him a Tommy, and I have got one that I know I can win with; I wouldn't give a damn cent to buy out or to sell out.

Q. He didn't say whether his Tommy Atkins was a live one or a dead one? A. No, sir.

Q. Just said he had the true Tommy Atkins?

A. No, just said he had a Tommy Atkins.

Q. And he didn't give a damn about buying out or selling out? A. That is all.

Q. Who is it you reported that to?

A. This man who just [] the stand a while ago.

Q. Hook Rogers? A. Yes, Hook Rogers.

Q. You went and told Hook Rogers about it?

A. No, it was three or four months ago, around up here, we were talking about it.

Q. And you first communicated it to Hook Rogers?

A. Yes, sir, I did; how it ever got any further, I don't know about.

Witness dismissed.

Mr. German: Your Honor, I think that is all.

Mr. Hill: If the Court please, we have one witness here that won't take but a few minutes.

The Court: Alright.

And thereupon, AUGUSTUS A. DAVIS, a witness produced on behalf of Nancy Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Hill.

Q. State your name and residence.

A. A. Davis—Augustus Davis, Wagoner, Oklahoma.

Q. How long have you resided at Wagoner, Mr. Davis?

A. Since 1893.

Q. What business are you engaged in?

A. Now, in the present time, I am in the shoe repair business.

Q. What did you do when you were there in 1893?

A. Along the latter part of '93, I commenced a Second-hand store, in '93 and '94.

Q. General second hand line of goods? A. Yes, sir.

Q. How long had you been in the general second-hand business there, Mr. Davis?

A. Until about seven years ago.

Q. Until about seven years ago? A. Yes, sir.

Q. You lived at Wagoner all that time? A. Yes, sir.

Q. From '93 on and were in the second hand busines from about '94 on, is that it? A. Yes, sir.

Q. Speak out loud, I can't hear you very well.

A. Yes, sir.

Q. Did you know a boy named Charles Harrison, or Charles Lee Harrison?

A. Well, now, you are asking the name, I don't know his name.

Q. Well, did you know a boy that was with Charlie Bailey, an Indian boy? A. Yes, sir.

Q. Did you see that boy here yesterday—a young man?

A. Well, I wouldn't be positive to that being the man.

Q. You saw the man, a witness here yesterday?

A. No, I wasn't in here.

Q. Well, he was pointed out to you as Charles Lee Harrison yesterday in the courtroom—as Charles Lee Harrison?

A. Yes, sir.

Q. You say you knew a young boy that was at Charlie Bailey's; now tell the Court all you know about him, and when you saw him there, and describe him.

A. Well, he was a young boy, I suppose seven or eight years old when I first saw him; perhaps that old or maybe not so old, at Charlie Bailey's residence, out on the farm there where we went a fishing on a little creek.

Q. What kind of looking boy was *her*?

A. An Indian boy.

Q. How was his hair?

A. His hair was straight and black.

Q. Did this man that was pointed out to you yesterday resemble him or could you recognize him?

A. Well, he is much larger than I expected to see him but some features about him seem similar to those I saw at that time.

Q. How long did you know about this boy being at Charlie Bailey's?

A. Well, the exact date, I can't tell you; it has been seven or eight years ago when Mr. Casper rented the Bailey farm and this boy I speak of was there on it.

Q. Well, that was when he was left on it; how far back do you know of him being there; how many years ago?

A. It might have been in '95 or '96.

Q. That you first saw him—'95 or '96, somewhere along there? A. Yes, sir.

Q. Do you know Nancy Atkins?

A. I saw her several times.

Q. Knew who she was? A. From the description.

Q. I said did you know her at the time you lived in Wagoner?

A. Yes, sir.

Q. Did you know a boy that was with her? Did you ever see a boy with her? A. One time.

Q. Well, state that one time that you saw the boy with her.

A. She came into my shop.

Mr. German: Is this rebuttal?

Mr. Hill: Yes, sir, here is the point I want; he was asked to identify this boy, and I want to lead to the point, is this Charlie Harrison.

The Court: He states that he cannot be positive, he saw him yesterday, and can't be positive; Charlie Harrison has some features of this boy who he saw out there at Charlie Bailey's.

Mr. Hill: I don't care whether he identifies this boy in Court but the boy at Charlie Bailey's.

The Court: I appreciate your point; you desire to show that the description of Charlie Harrison when a little boy was entirely different from the description which your witnesses have given.

Mr. Hill: Yes, sir. and I want to have him describe that boy.

Mr. Hanford: I—Your Honor please, I think he ought to fix the time when Charlie Harrison was there.

Mr. Hill: He said ninety-six or seven.

Mr. Hanford: He said about a month during the time he was seven or eight years old.

Mr. Hill: I think you mis-understood him.

The Court: Well, go on.

Q. Now, go ahead, Mr. Davis.

A. A man by the name of Snow and her came in there, and the boy was with her.

The Court: Now, I don't understand what boy he is referring to; Charlie Harrison?

Mr. Hill: No, sir, Nancy's boy.

The Court: Well, alright.

A. He came into my store there to buy some shoes.

Q. He came—well, go on and tell everything that occurred there.

A. I don't think I had the size of the shoes for him; anyway they were there quite a little bit, and talked, but I had seen this boy before.

Q. Well, now tell us what took place between you and Nancy about the boy, if anything?

A. Well, she said this is my boy; I want to get him a pair of shoes.

Q. Well, now had you seen that boy before?

A. Yes, sir.

Q. How long before had you seen that boy?

A. It might have been a year.

Q. Had you seen him more than once or how often had you seen him?

A. I had seen him two or three times; perhaps four times. I wouldn't say the exact number of times.

Q. Had he ever been in your store before?

A. Him and two other boys.

Q. Well, who were the two other boys?

A. They were a couple of colored boys by the name of—the name has slipped me now, I can't call their name, where he lived.

Q. What? A. Where he lived.

Q. Where he lived? A. Yes, sir.

Q. Did you know those colored boys?

A. I had seen them around.

Q. Knew who they were? A. Yes, sir.

Q. This I believe you say was sometime after you had first seen this boy that you saw with Nancy, and she told you he was my boy? A. Yes, sir.

Q. Was anything said about his name there when Nancy was there, or when he was in your store with the colored boys?

A. When he was in my place before that, he picked up something on the counter and one of these boys said to him, you had better let that alone, you will let it break—says, Tommy, you had better let that alone; and I said Tommy, how much, and he says Tommy Atkins; that is all I know.

Q. That is the first time you ever remember seeing him?

A. Yes, sir.

Q. Then how long after that before he was in the store with Nancy? A. I can't say.

Q. Well, maybe a year, two years, three years, how long?

A. It might have been a year, or six months.

Q. It wasn't any short time? A. No, sir.

Q. Now, describe that boy at the time he was in there with Nancy; describe him to the Court.

A. He was a sandy complected boy; his hair was sandy complected, or red; I called him a red headed nigger. He was very dirty, looked like he had never been washed and his clothes was tattered and torn.

Q. You are familiar with the people around there, you have been there a long time; what in your opinion was his blood?

Q. White and Cherokee.

Q. Well, an Indian anyhow? A. Yes, sir.

Q. Did you think he was a negro?

A. No, sir, I couldn't see any negro about him, only he was dirty.

Q. Now, at the time he was in there with Nancy, about how old do you think he was?

A. He must have been about six or seven years, somewhere in that——

Q. And do you know what became of that boy?

A. Well, I understood he died there——

Mr. German: We object to that and move that it be stricken.

The Court: It will be stricken what he understood.

Mr. Hill: Well, I think we will connect it; my question is what he knew about him, I would like for him to answer and then they may move to strike.

The Court: Alright.

Mr. Hanford: This is still rebuttal?

Mr. Hill: I think so.

Q. If you know anything about his death, state it.

A. Mr. Hall, Mayor Hall, we called him, I don't know

whether he was Mayor at that time or Marshal; he came around, passed my place, he lived east of me—he came in my place and stopped one day and said he was going to bury a nigger over there in nigger town, and I said who, and he said that Tommy Atkins who runs around here.

Q. Did you contribute? A. No, sir, I didn't contribute.

Q. He told you about that? A. Yes, sir.

Mr. German: I move to strike that as hearsay and not rebuttal.

The Court: The motion to strike this will be sustained and the exceptions noted as to what Hall told him about the death of this boy.

Q. Mr. Davis, state whether or not this boy that you saw with Nancy and that you saw in your store as you have described, and the boy you saw at Charlie Bailey's were the same boy or a different boy.

A. They were different boys.

Cross Examination by Mr. German.

Q. You say this boy looked a good deal like a red-headed nigger? A. I didn't understand your question.

Q. Did you say that this boy looked to you like a red-headed nigger? A. I did not.

Q. I understood you to say that a while ago.

A. I said he was dark and dirty.

Q. But didn't you say that he looked like a red-headed nigger?

A. I said he looked like an Indian, and white.

Q. I thought you said Cherokee Indian a while ago?

A. Cherokee.

Q. You know the difference between a Cherokee and white, you have been living in that country a long time?

A. Yes, sir.

Q. He looked to you like a Cherokee Indian and white?

A. That is what I said.

Q. He looked to you like a Cherokee Indian and white?

A. Yes, sir, that is what I said.

Q. Now, you never saw him with Nancy but once in your life, did you? A. The only time I remember.

Q. Just once? A. Yes, sir.

Q. That was in the store? A. In the store.

Q. And a man by the name of Snow was in there at the same time? A. Yes, sir.

Q. Snow lived there?

A. I think she was staying with Snow.

Q. She was staying with Snow? A. Yes, sir.

Q. And what was this man Snow's name?
A. Well, we always called him Nigger Snow.
Q. Nigger Snow. He was a Nigger?
A. Cherokee Nigger.
Q. Cherokee Indian Nigger? A. Yes, sir.
Q. Did you know Snow's wife?
A. I have seen her several times.
Q. She was a Cherokee Indian Nigger too?
A. I don't know, no, sir.
Q. Well, what color was she? A. Dark.
Q. You went to Wagoner in 1893, did you see Nancy there often after you went there until she left there?
A. Not until that time Snow brought her in; I had heard of her.
Q. And you saw her from that time on very frequently, didn't you? A. I may have seen her two or three times.
Q. Where was your store?
A. It is across from the Court House, south of the Court House.
Q. Where the Court House is now?
A. Yes, sir, on Cherokee Street.

(Witness dismissed.)

And thereupon, MITCHELL WADSWORTH was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Please state your name? A. Mitchel Wadsworth.
Q. Where do you live?
A. About five miles west of Coweta.
Q. How old are you? A. Forty-eight.
Q. Mr. Wadsworth, are you a son of Kate Holden?
A. Yes, sir.
Q. Do you know Minnie Atkins? A. I used to know her.
Q. Is she related to you? Minnie and Nancy Atkins?
A. I guess so.
Q. They are related to you? A. Yes, sir.
Q. In 1898 or 1899, did you receive a letter from Minnie Atkins, asking you to enroll any of her family?
A. Yes, I received a letter from Minnie Atkins from Detroit, Michigan, and in this letter she said for me to file for her and Harvey and Charlie, them two boys. That was all there was in that letter.
Q. Did you apply to the Commission to file for those?
A. I applied to the Commission. I went down here to file

for the boys. I thought it would be all right to file for them and Bixby wouldn't let me file.

Q. What did you do then?

A. I didn't have the letter with me and I went back up to Wagoner—put the letter in my pocket, I just hung the coat up in Davis & Jones Store and somebody had taken the coat and I lost the letter.

Q. Why wouldn't he let you file?

A. I don't know why he didn't want me to file for them.

Q. Then, what did you do?

A. I never done anything only I told my step-father that I couldn't file for *the*, he might have to file for them or get in touch with them.

Mr. Hanford: If the Court please, I object to this on the ground it is not proper rebuttal.

Mr. Allen: Minnie Atkins testified on the witness stand she wrote a letter to this party.

The Court: All right, go on; overruled, exception noted.

Q. Mitchel, during the nineties or up to 1902 or 1903 did you know who lived in the home of your mother, Kate Holden?

A. Why, up to ninety-eight, Charlie and Harvey was kept there from the time Minnie Atkins turned them over to my mother until '98, and then they was taken away, but there wasn't but one Indian boy by the name of Edmund Bear that staid there.

Q. Was there any Indian boy by the name of Tommy Atkins ever staid there?

A. No, never was; I don't guess there was ever a Tommy Atkins staid all night at that house.

Q. How long did Edmund Bear stay at your mother's home? A. About six years.

Q. Was he enrolled under some other name? A. No.

Q. Where did he live? A. Eufaula.

Q. Did you know his people? A. Yes, sir.

Q. Was he an enrolled citizen of the Creek Nation?

A. He was a full blood Creek.

Q. How old was he when he was at your mother's home?

A. He was about twelve years old.

Q. Mr. Wadsworth, how long have you known Nancy Atkins?

A. I knowed her ever since we was little children, ever since I can recollect.

Q. Did you see her frequently during the time she was at Wagoner? A. I seen her off and on there.

Q. Did she give birth to any child at Wagoner?

Mr. Hill: That is not rebuttal, Your Honor, we object.

The Court: Hardly rebuttal. It will be rebuttal anything that this witness can testify to with regard to whether or not Nancy had a child with her there in Wagoner at the time he saw her.

Q. You saw Nancy, you say, frequently while she was in Wagoner? A. Yes, sir.

Q. Was there ever any child with her by the name of Thomas Atkins? A. Not that I know of.

Q. Did you ever hear of any Thomas Atkins in the family, in the Nancy Atkins family?

Mr. Hill: We object to that.

The Court: Overruled.

A. No, I never heard of none.

Q. Did you know the Dick Atkins Tommy?

A. No, I didn't know them niggers.

The Court: What relation are you to Nancy, what kin are you to Nancy?

A. I am Nancy Atkins nephew, Nancy Atkins and Minnie Atkins are my mother's half sisters.

Cross Examination by Mr. Stuart.

Q. In this letter that you got, she mentioned Tommy Atkins, didn't she, Minnie?

A. No. No, there wasn't but three names on that, that was herself and the two boys she stated.

Q. Now, don't you remember going over to Mr. Page's office to identify Minnie?

A. I didn't identify her either, did I?

Q. Well, she is the same woman then?

A. That is the woman I seen, but I didn't say that was her.

Q. But you do say it now?

A. That is the woman we seen.

Q. Is that Indian Minnie, she is your cousin, the true Indian Minnie?

A. I have heard that she said she wasn't no kin.

The Court: Look here, I want you to tell me now whether or not that is Minnie Atkins?

A. Yes, that is Minnie Atkins.

Q. That is your cousin?

A. She is my aunt, I think she is my aunt but she says she is no kin to me, I have heard. If that is the case I don't want to claim any relation

The Court: If she disavows you you disavow her.

Q. Well, you did go there to identify her, didn't you?
A. Yes, sir.
Q. And wouldn't do it? A. No, sir.
Q. Said she wasn't the woman?
A. No, I never said that.
Q. Now, what did you refuse to identify her for?
A. This is how come me not to identify her. She left them two kids on my mother you know and never even wrote but one letter in the meantime, fifteen or sixteen years, and then come back here talking big to me.
Q. Made you mad, didn't it?
A. Made me hot too just the same as it did her.
Q. How many times have you been arrested?
A. I have never been convicted of anything.
Q. How many times have you been arrested?
A. Don't make any difference how many times I have been arrested, never been convicted.
Q. How many times have you been arrested?
A. Are you trying me?

Redirect Examination by Mr. Allen.

Q. What year was it your received that letter? A. '99.

Recross Examination by Mr. Stuart.

Q. Didn't you, when you went over to identify Minnie, tell Mr. Page and Mr. Long that in that letter to you Minnie mentioned Tommy? A. No.
Q. Didn't you do that? A. No, I didn't.

(Witness dismissed.)

And thereupon, C. B. MALCOM was recalled for further cross examination and testified as follows:

Cross Examination by Mr. Hanford.

Q. You are the same J. E. Malcom that testified last night?
A. C. B. Malcom.
Q. Have you got the subpoena that you say was served upon you? A. Yes, sir.
Q. Let me see it. Who served that subpoena on you?
A. John Moran.
Q. You come down here with whom? A. Come by myself.
Q. Where did you meet Huck Rogers?
A. I never met Huck Rogers until yesterday.

Q. Where did you meet Betty Mann? (Witness looks through papers and is unable to find subpoena.)

Q. Never mind, I wanted to know if you had a subpoena served on you? A. I did.

Q. Where did you see Betty Mann?

A. I saw her yesterday.

Q. After you got here? A. Yes, sir.

Q. You didn't see her up in Tulsa?

A. Not right recently that I remember of.

Q. Didn't you see her in Tulsa Sunday?

A. No, sir, I was here Sunday.

Q. What day was it that you were up there in Tulsa with Betty Mann?

A. I weren't in Tulsa with Betty Mann any time, I might have seen her in Tulsa.

Q. You weren't talking to her Sunday in Tulsa?

A. No, sir.

Mr. Allen: Who is John Moran?

A. He is United States Deputy Marshal.

Examination by Mr. Stuart.

Q. Do you know a man by the name of John McDonald?

A. I don't know him personally.

Q. Where did you know him? A. I never did meet him.

Q. Where did you hear of him?

A. I learned of him in the papers for forgery.

Q. You never saw him? A. I never saw him in my life.

(Witness excused.)

And thereupon, SUSAN SMITH was called as a witness for and on behalf of the defendant, Henry Carter, and testified as follows:

Direct Examination by Mr. Cobb.

Q. Your name is Susan Smith? A. Yes, sir.

Q. You are the same Susan Smith that has testified in this case before? A. Yes, sir.

Q. I will ask you if your father and mother, or either of them during their life-time had a Bible in which a record of births were kept? A. Yes, sir.

Q. Have you that Bible with you? A. Yes, sir, I have.

Q. I wish you would let me have it. When did you first see this Bible?

A. Well, I don't know when I first seen it.

Q. Well, where was it when you first saw it?
A. In my mother's trunk.
Q. While you were staying at home? A. Yes, sir.
Q. Living there? A. Yes, sir.
Q. Now, when did this Bible come into your possession?
A. When my mother took sick and she has been dead twenty odd years.
Q. Two or three years before her death? A. Yes, sir.
Q. And has it been in your possession? A. Ever since.
Q. I ask you to examine this record here on these two pages in that Bible and ask you if they are in the same condition that they were when that Bible came into your possession?
A. Yes, sir.

Mr. German: Your Honor, we object. This is not rebuttal evidence?

The Court: No, it doesn't constitute rebuttal; it is part of your case in chief. I suppose the purpose you have in view is to show that the name H. Carter doesn't appear in that Bible. Is that it?

Mr. Cobb: Yes, sir, now here is the condition: In the testimony of Mariah Yoakum, a record purporting to have been made from this Bible, using a piece of paper and then transcribed to the Yoakum Bible contained the name of Carter in the Yoakum Bible which was introduced. Now then, we seek to rebut that testimony by showing the original Carter Family Bible didn't contain that name.

The Court: Now, that deposition was offered by the Government in chief?

Mr. Cobb: Yes, sir. I am in the position of having to ask the indulgence of the Court. It is a matter of discretion I understand with the Court.

The Court: Well, I will permit it.

Mr. Hanford: I want to join in that objection if the Court please. They had that Bible in their possession for a long time and there is no reason for not introducing it.

The Court: All right.

Q. You say that record is in the same condition as it was when it came to you? A. Yes, sir.

Mr. Cobb: We offer in evidence the pages of the Bible, marked Defendant Henry Carter's Ehibit A-4.

The Court: Was that Bible here the other day when this witness was on the stand?

Mr. Cobb: Yes, sir, it was here but I didn't know about it.

The Court: I wish you would state again about the Yoakum Bible, is the Yoakum Bible in evidence?

Mr. Cobb: Yes, sir, a copy of the records in the Yoakum Bible, and the Yoakum Bible contains the name of H. Carter among the records of the births. The testimony of Mariah Yoakum, and possibly some of the other members of the family, in the depositions shows that the record from the Carter Family Bible was transcribed on a piece of paper and from that piece of paper afterwards they were transcribed on the Yoakum Bible; and then the copy of the Yoakum Bible was introduced in connection with the Yoakum testimony.

The Court: Well, now, then the evidence doesn't show whether there was more than one Bible in which records of births were kept, and deaths were kept or not?

Mr. Cobb: I will ask that question.

Mr. Allen: Your Honor please, I think an inspection of this Bible will show that the same party wrote the names.

Q. I will ask, did your father and mother have any other Bible than that one? A. No, sir.

The Court: Well, from a general inspection of it it is apparent that this was not a record made from time to time as the event transpired, that is clear.

Mr. Cobb: Yes, I concede that is true, may it please the Court, but it would be admissible to rebut the Government's testimony upon this proposition that the testimony they introduced purports to be a copy of that Bible. The Bible itself when introduced shows that the Government's testimony is not true, that it is not a copy, or tends to prove that.

Mr. German: I don't think there is a word of evidence in this case that our Bible purports to be a copy of this.

Mr. Cobb: Oh, yes, that is the testimony, I read the deposition yesterday.

The Court: Well, I want to see that testimony before I admit this.

Mr. Cobb: I will call the Court's attention to the fact that the second page shows different handwriting.

The Court: Yes, I see. Get through interrogating her with regard to the history of this book and I will determine that matter when I see what the other evidence is.

Mr. Cobb: At this time, we desire to make the offer,

and the Court will pass on the admissibility when he goes over the testimony?

The Court: Yes.

Q. You say your father and mother had no other Bible than this? A. No, sir.

Q. Do you know of your own knowledge who made these entries in this Bible? A. No, sir, I do not.

Q. Were they in the Bible at the time it came into your possession? A. Yes, sir.

Q. There has been no change in it from that time to this?

A. No change whatever.

Mr. Cobb: At this time we offer in evidence the two pages showing the births in the Carter Bible.

The Court: Let the Bible be marked and that portion of it will be offered in evidence and the Court will reserve ruling as to the admissibility of it. Leave the Bible with the stenographer. The record may show that this offer of the pages from the Bible is objected to and the Court reserves ruling as to the admissibility of the Bible.

Cross Examination by Mr. Hanford.

Q. You say that Bible has been in your possession ever since your mother gave it to you? A. It has.

Q. Who did you give it to? A. J. Coody Johnson.

Q. When?

A. About a couple of years past, maybe that long, maybe not so long.

Q. Were you up in Montana?

A. No, I don't live in Montana.

Q. Where were you living? A. I was living in Kansas.

Q. What place? A. The old home Carter Farm.

Q. Carter farm? A. Yes, sir.

Q. You don't remember what year that was?

A. I said something about two years ago.

Q. He has had the Bible ever since?

A. I couldn't say that.

Q. You haven't had it? A. No.

Q. You gave it to him and haven't seen him since?

A. No, sir.

Q. Do you know Adas Wright's handwriting? A. I do.

Q. Is that her handwriting?

A. Her handwriting is not in that book.

Q. Do you know your mother's handwriting?

A. My mother couldn't write.

Q. Do you know your father's handwriting?

A. My father couldn't write.
Q. Do you know Mrs. Simington's handwriting? A. I do.
Q. Is that her handwriting? A. No, sir.
Q. Do you know Viola? A. I do.
Q. Do you know her handwriting? A. I do.
Q. Is that her handwriting? A. No, sir.
Q. Do you know Mrs. Yoakum's handwriting?
A. I didn't know she had any.
Q. She can't write? A. No, sir.
Q. Have you tried to find out who wrote that in there?
A. No, I had no cause to try to find out.
Q. What year did your mother die?
A. Ninety one or two, something like that.

Mr. Hanford: That is all.

Cross Examination by Mr. German.

Q. How old do you say you are?
A. According to that Bible I must be past sixty.
Q. I didn't ask you that, I asked you how old you are?
A. I don't know how old I am.
Q. You understood what your age is, you have been a school teacher?
A. I say according to that Bible, I am past sixty.
Q. Well, you have taught school? A. Tried to.
Q. Yes, for about four years in Missouri; don't you know what your age is?
A. I know the age that I gave in; no, I don't know exactly.
Q. It doesn't agree with that Bible there, does it?
A. Yes, sir, I think so.
Q. The age which you just now gave me; you say you returned from Missouri—you testified the other day that you returned from Mssouri in the '80's and took care of your mother you say? A. Yes, sir.
Q. In the '80's. What year in the '80's do you say that was? A. I don't know that I said at all.
Q. Well, you did say it was some time in the '80's, didn't you? A. Yes.
Q. This Viola was there when you went there finally from school, wasn't she? A. I said so, I think.
Q. And this record is wrong as to Viola's age?
A. There is no Viola there; you don't see any Viola in that book.
Q. What is this—Violet?
A. That is my younger sister.
Q. That is a different girl, then, is it?
A. It must be.
Q. They never put Viola's age in here either?

A. I don't see why they should.

Q. You don't [] what book Maria Yokum, your sister, testified about when she was giving her deposition, do you?

A. I do not.

The Court: I understood the name H. Carter appeared here?

Mr. Johnson: It does not, Your Honor.

Mr. German: That must be the point they are making.

Mr. Cobb: The purported copy of this Bible shows the name H. Carter.

Mr. German: That is counsel suggest this is the Bible the copy was made from. It does not appear.

The Court: From Maria Yokum's testimony, deposition, it gives a purported copy from a Bible, and in that copy appears the name of H. Carter.

Mr. German: No, that is not quite the record, Your Honor; Maria Yoakum has the Bible of the entire Carter family and it was got up years ago and it contains H. Carter and Viola both, and gives the birth of them, and it was made up years ago; the copy was taken from some Bible, I don't recall distinctly. It is very old at any rate.

The Court: Alright.

Witness dismissed.

The Court: Now, the matter of sur-rebuttal if there be any, in the Page and Hanford interests.

Mr. Stuart: I want to recall Mr. Malcomb.

The Court: You offer him now as your witness?

Mr. Stuart: No, Your Honor, I want to question him on cross examination, again.

The Court: Alright; call Mr. Malcomb.

And thereupon, ... MALCOMB, being called, further testified as follows:

Recross Examination by Mr. Stuart.

Q. Mr. Malcomb, how long has it been since you talked with Mr. Page about the Atkins case?

A. Well, the last time I talked to him was in the fall of 1914, or in the summer.

Q. How long since you talked with Frank?

A. I believe I said in March or April.

Q. 1914? A. Yes, sir.

Q. You had a talk with Mr. Lipscomb, a banker, three or four days ago, didn't you?

A. Might have been three or four days ago, longer than that I think.

Q. A short time ago? A. A short time ago.

Q. You told him you had a chance of making five hundred dollars to testify in this case, didn't you?

A. No, I didn't say that.

Q. Didn't you tell him you had a chance to make five hundred dollars to swear in this case, but it was too risky?

A. No, sir.

Q. You didn't say that? A. No, sir.

Q. Now, Mr. Malcomb, did you have what you were going to testify in this case, written down? A. What is that?

Q. Did you have what you were going to testify to, written down? Haven't you got a statement in your pocket about your evidence in this case? A. Why?

Q. Sir? A. Have I got a statement in my pocket?

Q. Yes, about what you were going to testify to.

A. I will show you everything I have got in my pocket if you want me to.

Q. I asked you; if you haven't, that ends it; if you have got the statement as to what you were going to testify to in this case.

A. I had some kind of statement in my pocket but I don't think I have got it now.

Q. Where is it? A. I don't know where it is.

Q. Did you throw it away or give it away?

A. I don't know.

Q. You don't know? A. No, sir.

Mr. German: Your Honor, we don't want to excuse the witness yet, I don't know anything about the matter asked about.

The Court: Well, you can find out right now.

Redirect Examination by Mr. German.

Q. Who is this man Lipscomb?

A. He is an ex-banker at Bixby.

Q. Where does he live now? A. He lives in Tulsa now.

Q. What conversation did you have with him?

A. Well, I told him I knew something about this case.

Q. Yes?

A. And that was about the size of the conversation.

Q. Was the matter of making any money out of your testimony spoken of at all? A. No, sir, it was not.

Q. Where was it you had the conversation?

A. It was, I believe, by the Bliss building.

Q. In Tulsa? A. In Tulsa, yes, sir.

Q. Has anybody offered you any money to testify in this case? A. No, sir, have not.

Q. Has the matter of your getting money for testifying been discussed with anybody? A. No, sir.

Q. About that statement, was there any statement, Mr. Malcomb, that you had anything to do with, tell us all you know about that or anything of that kind?

A. I don't believe I understand the question.

By the Court.

Q. Here, I will make you understand it; I want to talk to you: you told Judge Stuart you had some sort of statement in your pocket which you have lost. Now, who wrote that statement? A. I don't know.

Q. Who handed it to you?

A. I picked it up in the office down there.

Q. In what office?

A. In the—in the, not the marshal's office but the County Attorney's office.

Q. United States Attorney's office? A. Yes, sir.

Q. Now, what was it? Typewritten? A. Yes, sir.

Q. A typewritten statement? A. Yes, sir.

Q. What did it say?

A. It said something about me having a conversation with some woman, Betty Mann, and I hadn't had any conversation.

Q. And you hadn't had the conversation?

A. Yes, sir; and something about a fellow name of Dewitt, trying to frame up to get a Tommy Atkins that was at the Brown Hotel two years ago out of the way, and that I knew how it was, and was the cause of my being arrested over there; and that wasn't true.

Q. Now then what else did it have on it?

A. That I had talked with this woman.

Q. Now, you say you picked it up there; who gave it to you?

A. Someone in the office there handed me that and told me to look over it.

Q. You looked over it? A. Yes, sir.

Q. What else did they say to you about it?

A. Then I came back that evening and talked to them and that was yesterday, I believe, and came back this morning.

Q. Well, what did you tell them about that statement?

A. I told them that statement was not true and that I didn't know anything about that.

Q. What did you do with the statement?
A. I don't know; I may have it in my pocket.
Q. Well, let me see. A. Yes, sir, there it is.

The Court: He says this is the statement.

Mr. German: I know all about that now; I didn't know what he was talking about. This is simply some information furnished to us as to what this witness probably knew; that is all.

Mr. Hanford: Who by, Mr. German?

Mr. German: By Betty Mann, she speculated on it and she missed it in some places and some places she did not.

The Court: You have the statement now, do you want to cross examine him any more on it?

Mr. Stuart: No, sir, I don't want to ask any more questions myself.

Q. Now, there are some things in that statement that you don't know anything about? A. Yes, sir.
Q. And some things that you say are not correct as to what you do know? A. Yes, sir.

Recross Examination by Mr. Stuart.

Q. Did you say you got it from Betty Mann?
A. No, sir, I didn't get it from Betty Mann.
Q. Who did you get it from?
A. I don't know whether it was the gentleman there with the paper in his hand, or somebody else in the office.
Q. Well, identify the gentleman that handed it to you?
A. Well, there was three or four in there.
Q. Well, who was it handed you the paper?
A. I don't know.
Q. Now, it wasn't this gentleman, was it, or this one? Wasn't any of these lawyers that handed it to you?
A. I believe that it was.
Q. Which one was it?
A. I believe that is the man sitting there the second from the end.
Q. Mr. Linebaugh?
A. Yes, sir, I am not sure; I will not be positive about it.

Mr. German: I will state in the record, Your Honor, that this was simply statement of what this witness probably knew. We have been crowded for time, and it may be that it was handed to him to say what he know about it.

Mr. Linebaugh: Just a suggestion, Your Honor

please. The witness evidently is mistaken in identifying me because I was not present.

The Court: I understand that counsel says that that this is a statement furnished this witness for him to look over, purporting to state what he knew about the case.

Mr. Linebaugh: However, I will further state to the Court that I do not make that correction because I think there was any impropriety because——

Mr. Stuart: I wouldn't have believed it any how.

Cross Examination by Mr. Hanford.

Q. Did you testify last night that you hadn't talked to Betty Mann about this matter?

A. About this case? Yes, sir, I did.

Q. You never had told her what you knew? A. No, sir.

Q. Hadn't told anybody? A. No, sir.

Q. You don't know how they got you to come here and testify? A. I don't know.

Q. You didn't even tell Hook Rogers, even?

A. I hadn't told Hook Rogers what I knew about it.

Q. Now, in this statement, it contains here: "And then sometime along later in the same month—no, in April, along in April, Frank Long asked me—I don't know how he came to me, Frank—but Frank asked him if he found out anything about Minnie and he said he had not; couldn't find out anything about Tommy Atkins, and he made a remark about not trying to find out anything about Tommy because he thought Tommy had died before the war." Do you [] where Betty Mann got that? A. No, I don't.

Mr. German: Your Honor, I haven't the slightest objection to filing this statement in connection with the witness's testimony.

The Court: Oh, we will not go into that any further.

Witness dismissed.

The Court: Now, you may proceed, gentlemen.

Mr. Allen: If Your Honor please, on yesterday, right on the spur of the moment we were called upon for the report of Mr. Cook from which he refreshed his memory. I declined to give it because I didn't want to do it until I went over it with counsel associated with me. I now tender it to them for their inspection.

Mr. Hanford: We don't want it now when the witness is gone.

Mr. Stuart: Call Mr. Lipscomb.

And thereupon, C. LIPSCOMB, being called on behalf of the defendants, Minnie Atkins, et al., being first duly sworn testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. C. Lipscomb.
Q. Where do you live, Mr. Lipscomb? A. Tulsa.
Q. How long have you lived there?
A. Since last September.
Q. What business were you in before you went to Tulsa?
A. In the banking business.
Q. Where were you in the banking business? A. Bixby.
Q. How long? A. A little over five years I believe.
Q. You know a man name of Malcomb, that was on the stand today? A. Yes, sir.
Q. Did you have a conversation with him a few days ago?
A. Yes, sir.
Q. I will ask you whether or not in that conversation he told you—now listen, answer my question yes or no—whether in that conversation he told you that he had a chance to make five hundred dollars as a witness in this case, but he thought it was too risky? A. Yes, sir.

Mr. Stuart: That is all.

Cross Examination by Mr. German.

Q. Did he tell you who was making him that kind of proposition?
A. No, sir, he didn't say; we were just merely——
Q. Just merely as a witness——A. Spoke about the case, something on the sidewalk.
Q. Did he say that he had a chance to make five hundred dollars as a witness in this case if he would swear the way certain parties would like for him to, or anything of that kind?
A. He said that he—it was too risky, he wouldn't do a thing like that.
Q. Did he say about anything if he was brought on the stand he was going to tell the truth?
A. No, he didn't say.
Q. Didn't make any remarks at all?
A. No, he wasn't a witness—I don't suppose he knew he was going to be a witness.

Q. You didn't know about that? A. No, I don't know.

Q. Who was there besides you and him?

A. Well, no one—well some people were standing—I was waiting for my car when we were talking about this.

Q. When was this? A. One day last week.

Q. Where? A. It was on Third street.

Q. In Tulsa?

A. Yes, right at the corner of Third and Main, just off a little from the corner.

Q. Corner of Third and Main? A. Yes.

Q. *Now* come you to be talking to him?

A. Well, I was going up the sidewalk, I believe it was Boston, and he took up with me and he walked along that far with me, and just talking about first one thing and then another.

Q. Well, how did he speak about this case?

A. I don't know what brought it about now.

Q. Well, he said in some law suit, didn't he? Tell the conversation in so far as it related to the testimony—testifying.

A. Well, something was said about the case.

Q. What case? A. This Tommy Atkins case.

Q. Who said anything about it?

A. Well, I don't [] whether he first mentioned it or I, now, I can't say.

Q. Well, what was said about the case?

A. Well, during the conversation, he made the remark about he had a opportunity to make five hundred dollars as a witness but he declined to do so.

Q. But what? A. But he wouldn't do so.

Q. Wouldn't do so. What else did he say, now; what did you say to that, tell us what you said to that.

A. I told him I didn't blame him, I wouldn't do anything like that; I told him anything in this case, I thought that was crooked would certainly be prosecuted and I advised that he took the right stand in the matter.

Q. And he agreed with you that that was the way to do?

A. Yes, I don't know that he made any remarks about that or not at the time.

Q. You understood from his remarks that he could swear against the Government if he would, didn't you?

Mr. Stuart: We object to that Your Honor as to what he understood; let him state what was said.

The Court: Objection sustained; state what was said.

Mr. German: That is right, I think.

Q. Now, what else was said about the matter?

A. Well, that is about all that was said about it.

Q. About all that was said?

A. Yes, sir, about this case; he went on talking about other personal matters, yes, sir.

Q. Who else was there? Wasn't Doc Linhard there?

A. No, sir, he wasn't there at that time.

Q. Doc Linkhart?

A. Linkhart; I don't know whether I saw him the same day or not; I saw him once or twice last week.

Q. A good many people were passing on the street?

A. Yes, sir, a good many.

Q. And you were standing right out in the open?

A. Well, *stanind* up by the railing, that pool hall down below.

Q. Right by the Bliss building?

A. No, there by the Palace of Sweets.

Q. Where is that in reference to the Bliss Building?

A. Right across the street from it, right east.

Q. Mr. Lipscomb, didn't some bystander there speak up and say Malcomb, as long as you have known as much about this case, there is a chance for you to make money out of that?

A. I didn't hear it.

Q. Didn't hear that? A. No, sir.

Q. Tell the Court the exact words, he, or either one of you used when this Atkins case was spoken of.

A. I told as near as I can speak it.

Q. You haven't told any words about that; you simply said the Atkins case was spoken of.

Q. What was said about it, I can't say now—for sure I can't state.

Q. Well, who spoke next, who spoke next?

A. Well, I can't say which one did mention it first.

Q. Well, what words do you remember were spoken by you or him, the first words that were spoken that you remember. You can't recollect?

A. No, I can't; I was just trying to recollect.

Q. You can't give the language used or substantially the language used at all in that conversation?

A. No, sir, I don't believe I could.

Q. Except as you already stated? A. No, sir.

Q. Who did you first tell this to after you and Malcomb separated?

A. I never told it to anyone until Mr. Long asked me about it.

Q. When did he ask you about it?

A. He 'phoned me last night, sir.

Q. Do you know how he came to 'phone you? How did he find out to 'phone you, do you know?

A. Well, he 'phoned me in regard to——

Q. What did Long say to you? A. He called me up and asked me if I had had a conversation with Mr. Malcomb and wanted to *mnow* what it was; he *tole* me in 1914, but I told him I didn't remember having any conversation in regard to the matter of this case then.

Q. Well, did he tell you where he got his information that you might have had one?

A. No, not about this one; not this conversation, and then he called me again this morning and wanted to know if I would come up and I told him I was awful busy and expecting a wire from Bartlesville, and then he said he would like to have me come up and try to get me back on the motor.

Q. Did you tell him this morning, or last night, either one about——

A. I told him this morning about this.

Q. About this conversation? A. Yes, sir.

Q. After you got here? A. Yes, sir.

Q. After you came to Muskogee? A. Yes, sir.

Q. He didn't learn from you until you got to Muskogee that you had this conversation you are telling now?

A. He knew we had a conversation a day or two ago, but he didn't know the contents of it.

Q. How did he know?

A. I told him I was not talking to him then but I was talking to him a day or two ago.

Q. What business are you in now?

A. Well, I am handling oil leases more than anything else now.

Q. Who for? A. For myself; taking oil leases.

Q. Have you had any business dealing with Mr. Long or Mr. Page? A. No, sir, none at all.

Q. Never had?

A. No, sir, I knew Mr. Long during the time he was field clerk only. He used to pay the Indians off there at my bank; that is all the acquaintance I knew of him; never had any dealing personally with him.

Redirect Examination by Mr. Stuart.

Q. Who was it called you up on the 'phone?

A. Mr. Long.

Q. Is your name A. C. Lipcomb? A. No, sir, C. Lipscomb.

Q. Of Tulsa? A. Yes, sir.

Q. Ex-banker over at Bixby? A. Yes, sir.

Witness dismissed.

And thereupon, F. K. TAYLOR, a witness, produced on behalf of the defendants, Minnie Atkins, et al., being first duly sworn, testified as follows:

Direct Examination by Mr. Bond.

Q. What is your name? A. F. K. Taylor.
Q. Where do you reside, Mr. Taylor?
A. Leavenworth City, Kansas.
Q. I believe you have been connected with the police force of Leavenworth and have been patrolman, night sergeant and day sergeant, at different times, have you? A. Yes, sir.
Q. And on three different occasions have been police judge of Leavenworth? A. Yes, sir.
Q. As day sergeant you prepare the court's dockets as used in the police courts by the police judge A. I did.
Q. I will ask you Mr. Taylor, if the sheriff should telephone to police headquarters that he had a warrant for the arrest of a party and the chief should notify the policeman, patrolmen, if they found the party to bring him in, and this man was found by a policeman in the evening, and brought into the police station then put in the city jail, and that is all the connection the patrolman ever had with the case, whether under those circumstances the arrest of that person is docketed on the regular police court docket?

Mr. Linebaugh: Objected to if the court please as incompetent, and inadmissible and not proper sur-rebuttal.

The Court: On the rebuttal, the police docket has been offered in evidence and a witness has testified that there appears upon that docket no record with regard to the arrest of Tommy Atkins; there was evidence in the case by a witness to the effect that at one time when he was patrolman he arrested Tommy Atkins on direction of the chief and took him to police station and that he was afterwards put in jail. I assume this question now is asked with the purpose on the part of counsel to show that there was some such transaction connected with the Tommy Atkins case.

Mr. Bond: I want to show if Your Honor pleases, that the fact that his name does not appear upon the docket is not evidence that Mr. DeLaney, the patrolman, did not make the arrest.

The Court: You want to show that the practice was if the sheriff called the attention of the police there would be no record.

Mr. German: The witness, Your Honor, as I remember it, did not say that this was a state case; he said he made the arrest pursuant to the order of the chief.

The Court: Well, I am going to permit it because it will merely show if it shows anything, that there might possibly have been an arrest of this boy by the police, and the bringing of him to the police station without it appearing on the docket.

Mr. Stuart: We want to justify it on the testimony in the case.

The Court: I think probably it is justified.

"A. I don't think he was tried in our Court; I think he was taken to some Justice Court; I don't know what was done with him; in fact I just remember him on a complaint." Now, at the first he says there was a warrant for him.

The Court: Never mind, what is your objection?

Mr. Linebaugh: That the witness has not been qualified.

Q. "Out of what Court was the warrant issued that you served on him? A. We didn't have a warrant. Q. Well, was there a complaint made out? A. I think the complaint was made at the Police Station."

Mr. German: I want to make this suggestion, the books that we had here we have returned now, because we thought this phase of the case had been concluded, and showed, as Your Honor remembers, we offered to prove by the witness and your Honor excluded it, the arrest of Tommy York for larceny, which obviously was not a City case.

The Court: I will note your objections, and hear this in connection with all the rest of the evidence and give it whatever it is entitled to, if any, in my consideration. This man has testified that he has served as Police Judge several times.

Mr. Linebaugh: I make this point if the Court please, if I may, that the witness for a custom to be admissible, it must first be established that that custom was in vogue at the time of the entry inquired about; and therefore, they haven't qualified this witness as to whether that was the custom at that time.

The Court: When were you Police Judge, when did you first become Police Judge?

A. Commencing, I think, with the year 1897.

The Court: And how long did you serve then?

A. Two years.

The Court: From 1897 to 1899, that was along about the time of this arrest. Admitted. Exception noted.

Q. What was your answer to that question, whether or not under those circumstances that arrest would have been docketed? A. It would not have been docketed.

Cross Examination by Mr. German.

Q. Where would that case be found, Mr. Witness, now? Where could you find the record of that case, the illustration he gave? A. The case of York?

Q. No, he gave you an illustration and you said in that kind of a case there wouldn't be any record on the Police Court docket; where would there be a record?

A. There would be no record.

Q. Anywhere in Leavenworth?

A. Not necessarily. It is possible that it might have been entered on the Blotter, a sheet that is kept in the drawer to enter cases from time to time, but it would not be entered on the Police Docket.

Q. Well, would it be entered on any other Court Docket?

A. No, sir.

Q. You have made a search through all of those dockets for the name of Thomas Atkins? A. No, sir.

Q. Through either your own or any other Court docket up there? A. No, sir.

Q. Do you mean to say if a telephone message or other communication is sent over to Police Quarters that a complaint has been made against somebody and they want him arrested, that there wouldn't be a record made of it somewhere if it was coming from any other Court?

A. That would be the case if a warrant was issued and we were asked to make an arrest there would be no further record in our court.

Q. Well, if a man were arrested and put in the City Jail?

A. I should have said picked up as we term it.

Q. Well, if a man were picked up and put in the City Jail, wouldn't there be a record made of it?

A. No, sir, nothing further than I have mentioned.

Q. Wouldn't there be a record of that case in some other court, not the City Court but some other court?

A. If he was turned over, if he would be turned over to the State authorities there would be a record at the Court House in the court in which he was tried.

Q. Yes, and it could be found, couldn't it?

A. It should be, yes, if there was a record there.

Q. Well, when you would incarcerate a person in the City Jail for the purpose of later turning him, say the next day, to the State or County authorities, wouldn't there be some record of the fact that he was put in the City Jail somewhere?

A. No, sir, not in writing, unless it should be put on the blotter docket that he was picked up.

Q. Suppose he ate a meal in the jail somebody had to pay for it? A. Yes, sir.

Q. Well, wouldn't there be a record showing that that party had eaten a meal there?

A. Not necessarily. I don't know as to that case. That is the jailer's duty and business.

The Court: Would there be any record—Well, never mind.

Q. What did you ever have to do with the Jail record?

A. Nothing.

Q. Nothing at all? A. No, sir.

Q. What did you have to do with keeping the Police Blotter and other records in the Chief's Office in 1897 and '98?

A. Keeping the records, I had nothing to do whatever with keeping the Docket.

Cross Examination by Mr. Cobb.

Q. There is some one at all times in charge of the City Jail or City Prison, isn't there? A. Yes, sir.

Q. Now, when a party is arrested and brought in, some record by the Prison Keeper is made of his incarceration and of his imprisonment, isn't there?

A. I do not know if there is.

Q. You don't know about that?

A. No, sir—Well, I am not presuming.

(Witness dismissed.)

And thereupon, Court recessed until 1:30 P. M.

And thereafter, and at 2 o'clock P. M., on the same day, court convened pursuant to adjournment and further proceedings herein were had as follows:

WILLIAM A. DOIDGE being produced as a witness on behalf of the defendants, Minnie Atkins, et al., and being first duly sworn, testified as follows:

Direct Examination by Mr. Bond.

Q. What is your name [? A.] William A. Doidge.
Q. Spell the last name please. A. D-o-i-d-g-e.
Q. Where do you live, Mr. Doidge?
A. Leavenworth, Kansas.
Q. What business are you now engaged in?
A. On the police force.
Q. When did you first go on the police force? A. '97.
Q. Do you know about what date? A. February 4th.
Q. Do you know Mr. DeLaney—Pat DeLaney?
A. Yes, sir.
Q. Was he on the police force at the time you were?
A. He went on shortly after.
Q. Was that the first time he had been on the police force or was it his second time?
A. His second as I understood it.
Q. And when did he go on?
A. Along about the 8th I think it was.
Q. Of February? A. Yes, sir.
Q. What was he, what position did he hold on the police force? A. Patrolman.
Q. What position did you hold?
A. I was what they called Sergeant then; now Captain, they called them in the office.
Q. How long did you have that position?
A. Well, I was there six years, and two months; the first two years there was a captain and day sergeant that was the title then for two years and I afterwards filled both positions.
Q. I will ask you whether or not the day sergeant and captain prepared the docket that is sent to police court for the cases to come up before the police judge?
A. Yes, sir. I did.
Q. I will ask you Mr. Doidge, while you were sergeant preparing this docket in a case where a complaint had been issued from a Justice court and given to the sheriff and the chief of police had given orders to pick up a man whoever he might be, and the man had been arrested in the evening by a patrolman, and put in jail to be held for the sheriff, whether or not that would be docketed on your docket, that goes to the police court? A. No, sir.
Q. Did you know a boy there in Leavenworth there that was known as Tommy Atkins, the son of Indian Minnie?

Mr. German: Your Honor, we object to this as not rebuttal.

Mr. Bond: It will be Your Honor; it is leading up to a question that I want to ask him.

Mr. German: It is not thorough rebuttal.

The Court: Well, so far as to his knowledge whether this boy lived there one time or not is your case in chief.

Mr. Bond: Just want to know if he knows such a boy.

The Court: *The Court:* Well, he may answer.

Mr. German: We except.

A. I did.

Q. Did you know Tommy York? A. I did.

Q. I will ask you to look at that picture and see if you know whose picture that is? A. Tommy York.

Q. The picture you saw in the hotel this morning?

A. Yes, sir.

Mr. Bond: I desire to have the stenographer mark this. (Marked Defendants Exhibit B-27.)

Mr. Bond: I desire to offer this in evidence.

The Court: Any objections?

Mr. German: Yes, sir, it is not proper sur-rebuttal.

Mr. Stuart: Your Honor, this in rebuttal of the statement that Tommy York looked like an Indian, had straight black hair and looked like an Indian.

The Court: It may be admitted.

Mr. Allen: They brought that out on cross examination.

The Court: Well: I will admit it.

Mr. German: We except.

Q. You examined some records there at Leavenworth, did you, made an examination there not long ago at Leavenworth? A. Yes, sir.

Q. Do you know a man named Reed?

A. I met him twice.

Q. He is a Government man? A. So I was told.

Q. I will ask you if you were called in the office of the Chief of Police and told by Mr. Reed that they wanted you to come down here and identify some records as being in your handwriting, and if he then stated to you in substance and asked, do you know Tommy Atkins; did you answer him yes; and did Mr. Reed then say, well we can't take you because the Government is trying to prove there is no Tommy Atkins?

Mr. German: That is leading and improper rebuttal, not sur-rebuttal, leading and immaterial.

The Court: To what is this rebuttal?

Mr. Bonds: The only thing is, they had Mr. Kirsten here to identify some record; that was not the man who made the records.

The Court: This declaration of Reed's though?

Mr. Bonds: It seems to me, Your Honor please, it is proper to show the statement was made to Mr. Reed at the time that this man knew Tommy Atkins, told it to this Government officer that he knew him.

The Court: Well, he has been permitted to testify on the stand what he knew about Tommy Atkins; what he told the Government officer in connection with it, in my judgment, is not admissible.

Mr. Stuart: We offer it in this connection, if Your Honor please, you will remember Mr. Cruce made the statement for our side in the early stages of this case, that much of the Government's case was fabricated and we were going to show it. This gentleman has made a statement as to what a representative of the Government said to him with reference to this particular witness.

The Court: I of course can't carry all this record in my mind. What does the record show was Mr. Reed's connection with this case?

Mr. German: This is the first time his name has been called, Your Honor, and he hasn't been a witness.

The Court: I don't remember anything in the evidence which identifies Mr. Reed as a Government officer. The objection will be sustained and your exception noted.

Q. I will ask you, Mr. Doidge, whether or not this is the same boy you spoke about, Tommy York and Tommy Atkins are not the same? A. No, sir.

Mr. Allen: We object to that as leading.

The Court: Overruled.

Examination by Mr. Hanford.

Q. How does that (referring to photograph) compare in features and resemblance?

A. No comparison in my estimation.

Q. What kind of hair did Tommy York have?

A. Curly kinky hair like a colored person.

Q. What kind of hair did Thomas Atkins have?

Mr. German: We object to that.

The Court: Overruled.

A. Straight hair, rather coarse black hair.

Q. How did they compare in color?
A. The Atkins boy was lighter than the York boy.
Q. How long did you know him? A. Who?
Q. Well, Tommy York? A. Well, since he was a baby.
Q. How long have you known Thomas Atkins?
A. About two years, possibly three.

Cross Examination by Mr. German.

Q. Now, how long did you say?
A. About two or three years.
Q. How long have you lived in Leavvenworth?
A. Fifty years.
Q. All your life? A. No, sir, not quite.
Q. When did you come there, how old were you?
A. Not quite a year old.
Q. You lived there all your life since then? A. Yes, sir.
Q. What was your business before you became a Police officer? A. Painter.
Q. Painter? A. Yes, sir.
Q. You were around town a good deal? A. Yes, sir.
Q. All the time? A. Yes, sir.
Q. You only knew that boy two years?
A. Well, I would say two years, that is acquainted with him.
Q. You don't know where he came from nor where he went to? A. No, sir.
Q. You don't know whose boy he was nor anything about him?
A. Well, I understood he was Indian Minnie's boy.
Q. When did you understand that? A. 1897.
Q. You knew Indian Minnie well? A. No, sir.
Q. You were there in Leavenworth all the time?
A. Yes, sir.
Q. And you didn't know Indian Minnie?
A. I didn't know her personally, no, sir.
Q. Where would that record be about that boy?
A. What boy?
Q. That arrest you spoke about in case one was made in the way Mr. Bond has illustrated?
A. Where would the record be?
Q. Yes?
A. In the Police Station. Any particular case?
Q. The hypothetical case that Mr. Bonds gave to you, where would the record about that arrest be, or incarceration?
A. Whatever court issued the writ.
Q. What courts were there to issue writs?
A. Justice of the Peace and the District Court.

Q. And the District Court. Do you know—Do you mean that you would incarcerate a person arrested under those circumstances and not make any record on your blotter or anywhere about him? A. Yes, sir.

Q. Keep him over night? A. Yes, sir, sometimes.

Q. Give him a couple of meals? A. Yes, sir.

Q. And there would be no record of it? A. Yes, sir.

Q. Well, how would you get compensation for those meals?

A. Wouldn't get any.

Q. You mean to say you fed those prisoners free of charge? A. Yes, sir, the City did, I didn't.

Q. The City did, I understand. And no account kept of it at all? A. No, sir.

Q. No way to tell how many prisoners were in a jail any night? A. No, not any night.

Q. Any particular day?

A. Any committed prisoners, there was a record kept of those.

Q. If you had a half dozen that were not committed prisoners you couldn't tell about them? A. No, sir.

Q. By committed prisoners, you mean placed in jail?

A. No, sir, under arrest, for instance sentenced by the Court.

Q. But you might have a number of arrested persons who had not been committed and you wouldn't have a record?

A. They might not be under arrest for us. If the warrant was issued or wasn't issued and the Sheriff would telephone us to look out for so and so and if you see him pick him up. The officer would bring him in if he found him and notify whatever officer this was.

Q. That wouldn't happen with boys who lived right there in town who were easily found, would it? A. Yes, sir.

Q. You mean the County officers would enlist the services of the Police officers to arrest a person who was right there in town and easily found? A. Yes, sir.

Q. Did the County officers in those days ever make any arrests themselves, or would they have the Police officers make the arrests for them?

A. Oh, no, just a matter of accommodation.

Q. Did you have the County officers make arrests for you?

A. Yes, sir, if we had anything like that.

Q. Anything like what?

A. Have them look out for anybody for us.

Q. That would be somebody that was not apt to be found easily? A. Oh, not necessarily, no, anybody.

Q. When did you first talk to Pomp Graham about this case? A. Three weeks ago, about.

Q. And it was after that that you saw Mr. Reed, wasn't it? A. Yes, sir.

Q. How did you happen to come down here to testify?

A. I was requested to come down by Mr. Bond and Mr. Graham.

Q. Who came with you? A. Mr. Bonds.

Q. Didn't Mr. Graham come too, on the same train?

A. No, sir.

Q. Well, he is here? A. Yes, sir.

Q. He wasn't here yesterday?

A. No, sir, if he was I didn't see him.

Q. He was in Leavenworth yesterday? A. I don't know.

Q. Don't you know he came on the same train you did?

A. No, sir, he did not, if he did I didn't know it.

Q. When did you come?

A. I came, left Leavenworth Tuesday night and the storm kind of delayed us, we got in here Wednesday morning—Well, we left Kansas City at two o'clock and got in here about 11:45.

Q. When did Pomp get here?

A. I don't know, the first I seen of him was this morning myself.

Q. When was the last time you saw him in Leavenworth before you left there? A. Monday.

Q. Monday, and had a talk with him? A. No.

Q. How many different times have you talked to Pomp about your testimony here? A. Twice.

Q. What are you getting for coming down here?

A. I was told I would be paid for my services and all expenses.

Q. Is there any agreement as to what your services are worth? A. No, sir.

Q. You are to get what is reasonable after you get through testifying? A. Yes, sir, that is the understanding.

Q. You had that understanding with them before you came?

A. Yes, sir.

Q. How much did they pay you in advance? A. Ten dollars.

Q. And they purchased a ticket for you? A. Yes, sir.

Q. And they are to pay you whatever is reasonable after you get through testifying? A. Yes, sir.

Q. Now, tell us what Justices of the Peace were in Leavenworth in 1897 and '8?

A. There was three at the time; Jimmy Franks, Tom Plowman, and I think White was the other one at that time. They changed around there a great deal.

Q. Are those records still there, the records that they kept? A. I don't know anything about their records.

Q. Didn't you go to investigate? A. No, sir.

Q. Well, Graham had you to investigate these records didn't he at Police Head-quarters? A. No, sir.

Q. Did Mr. Bond? A. No, sir.

Q. Have you looked through these records lately?

A. Yes, sir, Mr. Reed had me look at the records.

Q. You couldn't find anything there relating to Thomas Atkins? A. I couldn't, no, sir.

Q. You didn't go over to the Justice Court to see what was there? A. No, sir.

Redirect Examination by Mr. Bond.

Q. How many years were you under-sheriff?

A. Four years, five years—four years and nine months rather.

Q. How many years were you connected with the sheriff's office all told? A. Thirteen.

Q. Mr. Graham that was spoken about is the Juvenile Officer there? A. Yes, sir.

Q. And has been ever since there was one, for about ten years? A. Yes, sir.

Q. You came down here on the train with me?

A. Yes, sir.

Q. Leaving Leavenworth at nine o'clock, and so far as you know no one else was with us? A. No, sir.

Mr. Hanford: Before this witness leaves the stand, I would like to make a record on that question. I would like to make an offer to prove as to what was intended to be shown with regard to the question that was asked.

The Court: All right.

Mr. Hanford: We offer to show by this witness that he was subpoenaed on behalf of the Government and was prepared to make the trip to Oklahoma to testify in regard to the Police Record not showing any record of an arrest of Thomas Atkins——

Mr. Allen: I would rather you would bring out the question of being subpoenaed.

The Court: Go on and state your offer.

Mr. Hanford: And that before he started Mr. Reed, who is representing himself as working for the Government in Leavenworth on this case, asked him if he knew what he was coming down here to testify to, and asked him if he knew what the case was, and he told him that he knew something regarding the case, when he explained to him that it was to prove that there never was a Thomas

Atkins and asked him if he knew Thomas Atkins, he stated that he did. Whereupon, the expense money that had been advanced to him was taken back and he was never sent down by the Government.

The Court: Now, the record will show whether this man was subpoenaed by the Government. Is it denied that the Government subpoenaed this man?

Mr. Allen: If the Court please, I don't know whether he was or not. I haven't had any information that he was until Mr. Hanford's statement.

Mr. Hanford: Mr. Bond informs me he was called——

Mr. Allen: I think the truth is that we wired Mr. Reed to have someone come on who could identify the record.

Mr. Hanford: Well, we will concede that, Mr. Allen, that he was called by telegram.

The Court: You have your offer in the record, gentlemen; I have already ruled on that. From the colloquy here I am satisfied the record will not show that any subpoena was not issued for this man. It is suggested that Mr. Reed was asked to have someone here who would identify the records, or testify with regard to them. That is in evidence here.

Mr. Stuart: I want to state this, to be frank with the Court, I am not insisting on Mr. Reed's statement. I think it would be error to admit it.

* * * * * * * *

The Court: The objection will be sustained and exceptions noted, if you desire it.

Mr. German: Well, this witness' testimony about his knowledge of Thomas Atkins was not admitted as sur-rebuttal, yet the connection in which it was brought in, Your Honor, throws this matter in such shape that we have to cross examine him about it.

Cross Examination by Mr. German.

Q. Mr. Doidge, when did you say you first knew a boy named Thomas Atkins?

A. Oh, along from '96 and '97, along in there.

Q. Where were you living at that time?

A. *Mr.* residence number do you mean?

Q. Yes? A. In '96?

Q. Yes? A. 720 Dakota.

Q. 720 Dakota? A. Yes, sir.
Q. How many streets was that north of Shawnee?
A. Nine.
Q. How many streets west of there?
A. Four, four blocks.
Q. Four blocks? A. Yes.
Q. What age are you now? A. 51.
Q. Where was it you saw any boy by that name?
A. Saw him on Third street, running around the street there.
Q. What were you doing?
A. I was on the police force part of the time.
Q. I thought you were at the police headquarters?
A. Well, I was.
Q. Where were police headquarters located?
A. Fifth and Shawnee.
Q. Fifth and Shawnee? A. Yes, sir.
Q. Two blocks west of Third and one block south of Seneca? A. Yes, sir.
Q. What were you doing around Third and Seneca?
A. Oh. business brought me around there.
Q. What kind of business?
A. I don't know exactly what it was; at the time I was not in the office solely from morning until night— possibly you may get a call out yourself, some thing important that you go out on yourself.
Q. In 1897 that was? A. Yes, sir, when I first went on.
Q. This boy, who was with him?
A. Well, one of the boys that I remember he run with a great deal was a fellow they call Cheney Paul—I don't know what his last name was.
Q. He a negro? A. No, he was a white boy.
Q. Where is he now? A. I don't know.
Q. Was he a bad boy?
A. No, little mischievous as all little boys are as a rule.
Q. What age boy was Cheney Paul?
A. I judge about 13 years old, at that time.
Q. What was the age of this boy you called Thomas Atkins along about that time?
A. He was about 11 or 12 years, along about that.
Q. What color was this Atkins boy?
A. He was rather a light color; the only thing noticeable about him with me was his hair; rather coarse black hair, real black.
Q. Real black coarse hair? A. Yes, sir.
Q. What was the complexion of the boy?
Q. Well, a sallow complexion.
Q. A sallow?

A. Yes, that is what we call sallow, a yellow complexion.
Q. And white? A. Yes, that is what we considered him.
Q. Now, did you see him anywhere else besides Third and Seneca?
A. Oh, I may have seen him a dozen times on different streets.
Q. Might have, but I want to know if you did?
A. Yes, sir, I did, but I didn't pay any particular attention at the time.
Q. Why did you ever pay any attention to him?
A. Seeing him around and hearing of him as boys are at the——
Q. That the way you heard of him?
A. Yes, sir, I knew of him before that.
Q. What did you hear of him before that?
A. It, was rumored there as Indian Minnie's boy—Indian Minnie's kid, is the word they used.
Q. Yes, sir, Indian Minnie's kid? A. Yes, sir.
Q. And that is what you heard before? A. Yes, sir.
Q. And then it was after that that you saw him?
A. Oh, no, I had seen him before.
Q. You had seen him before? A. Yes.
Q. You were present at his birth, weren't you?
A. No, sir.
Q. Oh weren't you there Mr. Doidge? A. No, sir.
Q. He was about a year old the first time you ever saw him, wasn't he? A. Who?
Q. Indian Minnie's kid? A. No, sir, no, sir.
Q. Well, was he two? A. No, sir.
Q. Three? A. No, sir.
Q. Four? A. No, sir.
Q. How old was he?
A. About ten or eleven years old, or twelve.
Q. Twelve, maybe? A. Possibly, that is I knew him for two or three years there—*ine* or eleven or twelve years old.
Q. And where did he—what age was he, I mean what year was it that you first knew him?
A. Oh, I would say along about ninety-five or six when I first knew him.
Q. First knew him about ninety-five or six. Now, when did you last see him?
A. Well, I suppose the last I can remember of, along about '97, the latter part of '97.
Q. What became of him? A. I am sure I don't know.
Q. Just disappeared?
A. Yes, sir, as far as I knowed; that is with me he disappeared.
Q. And you were still on the police force after that?

A. Yes, sir.

Q. How long?

A. I was there for six years and three months from '97.

Q. '98? A. From February 4th, '97.

Q. And this boy disappeared? A. Yes, sir.

Q. Now, didn't you make some inquiry to see what had become of him? A. No, sir.

Q. So it has been 20 years since you have seen the boy?

A. Yes, sir.

Q. And you remember about him?

A. Yes, sir; well this is what makes me remember Indian Minnie's kid running with this Jew boy, is what makes me remember that boy—do you wish me to explain?

Q. Yes, sir.

A. He had his legs cut off by the train there.

Q. What was his name?

A. Cheney Paul they called him.

Q. What was—when was it he had his legs cut off?

A. I think that along about '99, I think now.

Q. And that helped you to remember this boy Indian Minnie's kid?

A. Yes, sir, he used to run with this Indian Minnie's kid, as they called it.

Q. When this boy had his leg cut off, I suppose you immediately thought of Indian Minnie's kid, didn't you?

A. Well, I don't know as I did.

Q. What became of the boy who had his legs cut off?

A. I don't know that.

Q. When did he disappear?

A. Well, I don't remember that; he was around there two or three years on a crutch.

Q. Well, what became of him? A. I don't know.

Q. How old was he when he had that accident?

A. I judge the boy to be about 14 years old.

Q. What kind of looking boy was he?

A. He was a white boy.

Q. What color was his hair? A. Dark brown hair.

Q. Dark brown hair; what was the color of his eyes?

A. I don't remember that.

Q. Don't recollect that? A. No.

Q. What other boy was with this boy that you ever saw in your life with him?

A. I don't remember any other particular boy.

Q. Don't you remember any other boy that you saw with him? A. I don't recall any.

Q. Unable to recall any? A. Yes, sir.

Q. The only boy you ever saw him with was this Jew?

A. Yes, sir, that I paid any attention to; I guess I seen him with lots of others maybe.

Q. What attracted your attention to this Jew?

A. The boy getting his legs cut off afterwards.

Q. That is what made you remember him? A. Yes, sir.

Q. Was Tommy with him when that accident happened?

A I don't know who was with him at the time.

Q. Where did the Jew live?

A. I think on Seneca street; Shawnee or there somewhere.

Q. Who with? A. Who with?

Q. Yes. A. I don't know.

Q. Now, Mr. Doidge, you want us to understand that in case an [] arrested under the circumstances detailed by Judge Bond, that there is no record made or was not in those days of the fact of the arrest, nor of the incarceration on the police records any where? A. No, sir.

Q. You say there was not? A. There was not.

Redirect Examination by Mr. Bond.

Q. They asked you something about paying for the meals, the city pays for all the meals, don't they?

A. Yes, sir.

Q. And the city jail is where they feed tramps?

A. Sometimes, yes, sir.

Q. And the city jailor makes a list of the meals furnished by him? A. Yes, sir.

Mr. Bond: That is all there is to the meals.

Recross Examination by Mr. German.

Q. Did the city have jurisdiction in larceny cases, Mr. Doidge? A. Have jurisdiction?

Q. Yes?

A. Yes, they would make arrests in them, yes, sir.

Q. But they didn't have jurisdiction to try them did they?

A. No, sir.

Q. And didn't try any larceny cases? A. No, sir.

Q. And when anybody was arrested when he was charged with larceny a warrant issued out of the state court—Justice court or the County Court, when he was arrested by the police, there wouldn't be any record made of it?

A. No, sir, not if they—if the police knew of this larceny and got the man prior to the warrant being issued or anything, they would arrest him and bring him in.

Q. Bring him in? A. Yes, sir.

Q. And make a record on that?

A. Yes, sir, make a record on that.

Q. Then they would try him and convict him, wouldn't they?

A. No, sir, they would hold him to give them a chance to get a state warrant out for him.

Q. Now, you are sure about that are you? A. Yes, sir.

Witness dismissed.

Mr. German: Now, Your Honor, in connection with the testimony—in connection with his testimony, we re-offer the police records that we had here, showing the arrest and conviction of Tommy York in the city court for Leavenworth.

The Court: Is it here now?

Mr. German: No, sir, but we made the offer of it and it was read into the record; we had it here at the time.

The Court: You read it into your offer so that it appears?

Mr. German: Yes, sir.

Mr. Stuart: Your Honor, I don't believe, so far as Page is concerned, that I will object to that.

The Court: Alright; the offer of the police record heretofore offered and objection sustained by the court, is now admitted in evidence, the objection being withdrawn.

And thereupon LEE BOND, being called on behalf of the defendants Minnie Atkins, et al., and being duly sworn testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Bond, I believe you testified that you practiced law in Leavenworth, Kansas? A. Yes, sir.

Q. How long have you practiced there?

A. Since '99.

Q. Were you police judge at any time there? A. Yes, sir.

Q. Police judge; did this man Doidge ever serve under you? A. Yes, sir.

Q. Mr. Bond, I will ask you whether or not under the laws of Kansas at that time, the city had jurisdiction of larceny cases? A. It did not.

Cross Examination by Mr. German.

Q. You didn't make up any of those records of conviction for larceny in the city court then? A. No, sir.

Q. While you were police judge? A. No, sir.
Q. You are one of the attorneys for the Page interests in this case? A. Yes, sir.

Redirect Examination by Mr. Stuart.

Q. Have you been offered anything for coming down here except your fee? A. No, sir.

Recross Examination by Mr. German.

Q. Mr. Bond, you are United States Commissioner at Leavenworth, aren't you? A. Yes, sir.
Q. And have been for a number of years?
A. Yes, sir, since 1907, I think.

Witness dismissed.

And thereupon, FRANK B. LONG, being called on behalf of the defendants Minnie Atkins, et al., and further testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Long, were you in the court when this man Malcomb testified? A. Yes, sir.
Q. I will ask you whether you ever had a talk with this man Malcomb about this case?
A. Never in my life that I remember of.
Q. Did you ever promise him anything in this case?
A. Never.
Q. Do you remember ever to have seen him before?
A. Never.
Q. Mr. Long, I will ask you whether or not you ever at any time offered any money or made any promise to Mrs. Cobb with reference to this case? A. I did not.

The Court: Who is Mrs. Cobb?

Mr. Stuart: That is the woman, Your Honor, about whom they asked when Mr. Blakeney was on the stand about the mark, you remember.

The Court: Oh, yes, I remember.

Mr. Stuart: Mr. Bell testified that she said Long and Page had promised to make her comfortable for life.

Cross Examination by Mr. German.

Q. You say you never saw this man Malcomb before in your life?

A. Not that I remember of until he was on the witness stand last night.

Q. Don't recollect it if you ever did? A. I do not.

Q. You have been living in Tulsa all these years have you not, for several years? A. Yes, sir.

Q. You have talked to a great many people about this case, haven't you? A. Yes, sir, very few in Tulsa, however.

Q. Very few in Tulsa. You have talked to several at your office and several on the streets? A. Oh, yes, yes.

Q. And a number of people about evidence, haven't you?

A. Yes, sir.

Q. You know W. W. Fox of Tulsa? A. Yes, sir.

Q. How long have you known him?

A. Well, I knew him—he has only been in Tulsa perhaps a year; he used to live in Bixby. I knew him when he lived there.

Redirect Examination by Mr. Stuart.

Q. Mr. Long, I will ask you whether or not you ever saw anybody in Mr. Page's office pay Malcomb any money?

A. No, sir.

Witness dismissed.

And thereupon, CHARLES PAGE, being recalled, further testified on behalf of the defendants Minnie Atkins et al., as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Page, you saw Mr. Malcomb on the stand today?

A. I did.

Q. I will ask you whether or not you ever had a talk with Mr. Malcomb about this case?

A. I don't never remember seeing the man in my life.

Q. Mr. Page, I will ask you whether or not you ever paid Mr. Malcomb any money in this case?

A. Never in the world.

Q. Did you ever see anybody in your office pay him any money? A. Never, and I know he never did get any.

Q. Mr. Page, I will ask you whether or not at any time you ever offered any money or made any promise to Mrs. Cobb to testify in this case?

A. No, nor nobody else.

Cross Examination by Mr. German.

Q. You did go to see Mrs. Cobb, though?

A. I never saw Mrs. Cobb but once; I drove over there to see her.

Q. You drove over to her home at Stacey, Missouri?

A. Yes, sir, the only time I was ever in Leavenworth.

Q. You talked to a large number of people in Tulsa about different features of this case, haven't you?

A. I don't think I have.

Q. You don't think you have talked to people there?

A. I have talked about it, yes; talked about the case considerable to different ones.

Q. In your office?

A. Well, in my office, naturally would.

Q. You can't now, state all the names of all the people you have talked to, could you, about it?

A. I *am* never have talked to that man, I am positive, about this case.

Q. I ask you if you could now state the names of all the people you have talked to about the case?

A. No, I can't.

Witness dismissed.

And thereupon, MINNIE ATKINS FOLK, being recalled on behalf of the defendants Minnie Atkins, et al., further testified as follows:

Direct Examination by Mr. Hanford.

Q. Minnie, I will ask you whether or not your boy Thomas Atkins had any birth mark? A. No, sir.

Q. On him? A. No, sir.

Mr. Cobb: Objected to as incompetent, irrelevant, and immaterial, and not proper rebuttal.

The Court: Overruled.

Mr. Hanford: That is all.

Cross Examination by Mr. Cobb.

Q. Now, you testified in this case at Seattle, Washington, didn't you? Your deposition was taken there, wasn't it?

A. Yes.

Q. Mr. Blakeney cross examined you while you were testifying there, didn't he?

A. I don't know who it was.

Q. You remember this white haired man that was here the other day?

A. Well, I couldn't say whether it was him or who it was.

Q. I will ask you if Mr. Blakeney didn't ask you in that testimony about your recollection of the birth mark on the back of your baby, Tommy Atkins? A. No.

Q. He didn't ask you that? A. No.

Q. I will ask you to state if he didn't ask you to state if there wasn't a birth mark on the back of your baby and if you didn't state that you didn't remember whether there was or not, either that or that in substance? A. No.

Q. You didn't make that statement?

Mr. Cobb: If the Court please, I would like to get hold of the transcript of the testimony.

Mr. Stuart: I will agree to this, Mr. Cobb, if it is there you may put it in.

The Court: Yes, you may refer to the deposition and if there is that in the deposition which is incorporated in your question, you may put it in in connection with this witness' testimony.

Mr. Cobb: I may not have it in the exact language.

The Court: Well, if it is in substance.

Cross Examination by Mr. German.

Q. Minnie, in your testimony in Seattle in January, 1915, when Mr. Penick was there, you remember that Mr. Blakeney cross examined you, didn't you testify as follows: I am reading from page 269 of Mr. Penick's transcript, "Or was it because of some peculiar objections you had to Tommy," he was questioning you about why you concealed him. "Or was it because of some peculiar objections you had to Tommy," did you not answer to that: "No, that was it." Then another question: "Or was it the fact that Tommy is so dark? A. Why, Tommy isn't dark, why do you think he is dark? Q. Why do you think he is not? A. Because I know he is not. Q. When did you last see him? A. I never seen him, but I know he is not dark." Didn't you testify that way? A. Yes.

Mr. Stuart: Why, Your Honor, that is not what Mr. German had reference to when he picked that up; he said to impeach Minnie on the point of the scar.

Mr. German: That is it, that she never saw him in her life.

The Court: Well, let's get this record. You have asked this witness if that was her testimony.

Mr. German: She said yes.

Redirect Examination by Mr. Hanford.

Q. Minnie, I will ask you if you did not testify at the same time and same place—I am reading from page 276 of the record——

Mr. German: Your Honor please, we object to him interrogating her about her former testimony.

The Court: Well, she has been interrogated now on cross examination with regard to certain testimony which she gave in Seattle, which it is conceived is contrary to what she testified here; now, anything in connection with that I think is competent.

Q. "Wasn't you trying to help identify your boy? A. He had no marks on him anywhere when I had him. Q. None at all? A. No, not a mark."

The Court: Was that your testimony in Seattle?

A. Yes, sir.

(Witness dismissed.)

Mr. German: Your Honor, at Leavenworth, when Mr. Penick was there taking depositions, the deposition of Richard Nichols, a colored man there in Leavenworth, was taken, and it was taken by us, Judge Allen questioned him and he was cross examined and then they introduced that deposition here, the defendants have, the Page interests, and while Judge Allen and I don't like to take the stand on a matter of impeachment I guess we will have to, Judge Bond laid the predicate a while ago and set a good example, so, Judge Allen and I will have to take the stand on that.

The Court: Let's get the case closed first.

Mr. German: I thought they were waiting.

Mr. Stuart: I am willing for them to break in.

And thereupon, W. P. Z. GERMAN was called as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. Allen.

Q. Mr. German, you are the same W. P. Z. German who was on the witness stand before? A. Yes, sir.

Q. One of the attorneys in this case? A. Yes, sir.

Q. Did you have a conversation in Leavenworth in 1915,

just before the taking of depositions in Leavenworth in this case, with Dick Nichols in the National Hotel?

A. I think it was 1916, Judge.

Q. 1916, yes, sir? A. Yes, sir.

Q. Anyway just a few days before he testified as a witness?

A. I think it was a few days before we had the conversation.

Q. Was that the conversation at which Mr. Bagley and myself were present? A. Yes, sir.

Q. State whether at that time and place Dick Nichols stated, said in substance, that Rube Smith said in reference to his testimony in 1914 in the State case at Leavenworth, that Rube Smith went over the testimony of several of the other witnesses with him, and that he heard some of their testimony, and that Rube Smith said you just as well make some money out of this, everybody else is making money; and he went on the witness stand and testified to just what the others were testifying to, and that they paid him five dollars and promised him some more money and a trip to Oklahoma?

A. He stated that in substance, except that I do not remember that he stated that he heard some of the witnesses testify, but he did state that Rube Smith went over the testimony of the other witnesses with him, and the rest that you read.

Q. Did he state in that conversation repeatedly that he didn't know Minnie Atkins? A. He did.

Q. Did he further say in that conversation that he had talked to a number of witnesses who had testified in Leavenworth in 1914; that Sam Nash told him that he had gotten twenty-five dollars and a restaurant in Oklahoma for testifying? A. Yes.

Q. Did he further say that Charlie Anderson told him that he received fifteen or twenty dollars——

Mr. Stuart: Now, Your Honor, I couldn't tell what they were after until he got his evidence in. This Dick Nichols testimony was taken by the Government. You took the deposition yourself and took it at Leavenworth. It didn't suit the Government and we introduced it in evidence. Now, they are attempting to impeach the testimony of a witness they took at Leavenworth.

The Court: Now, how was the ground laid for all of this?

Mr. Allen: Your Honor please, we, after this conversation with Dick Nichols, we put him on the witness stand at Leavenworth.

The Court: Yes, and you have his testimony there now, did you ask him with reference to these things?

Mr. Allen: I am reading from it.

The Court: And did he deny those statements?

Mr. Allen: He denied those statements.

The Court: Now, so far as those statements relate to the other witness, in my judgment, it is bringing something in under the guise of impeachment which is probably more.

Mr. Allen: I will not inquire about those other matters.

Cross Examination by Mr. Stuart.

Q. You put him on the stand?
A. Yes, Judge, and we were surprised at his testimony.
Q. And examined him for the Government?
A. Judge Allen did.
Q. Judge Allen examined fully for the Government?
A. Not very fully, as fully as he could in the way he proceeded to testify.
Q. As fully as you could when you found out he wouldn't testify in your favor?

Mr. Allen: I object to the question.

A. We will not argue that Judge.

Mr. Allen: The testimony is in here and shows we did plead surprise at the outset of his testimony and laid the predicate.

The Court: Mr. Allen. I will take your word for it when you say it is there.

Redirect Examination by Mr. Allen.

Q. Mr. German, was any intimation given there by any one representing the Government that we desired him to change his testimony from what he had testified in 1914?

The Court: That would depend upon what was said. There is no suggestion here that you tried to make him.

Q. Did either of us, or anyone representing the Government there, say to him in substance that unless he did change his testimony that he would be sent to the penitentiary?
A. We did not.
Q. Was there any suggestion made about him being sent to the penitentiary?
A. No, sir, he talked very voluntarily and freely with us about the whole matter.

Cross Examination by Mr. Stuart.

Q. And made a sudden and mysterious flop on the stand?
A. Well, judge, you are a better describer than I am. The record shows what he did on the stand.

(Witness dismissed.)

And thereupon, R. C. ALLEN was called and sworn as a witness for and on behalf of the Government in rebuttal and testified as follows:

Direct Examination by Mr. German.

Q. Judge Allen, were you present at the time Dick Nichols was in the National Hotel with Mr. Bagley, Arthur T. Bagley, Special Agent for the Government, located at Kansas City, and myself? A. I was.

Q. When we had a conversation with Dick. State whether in that conversation Dick stated to us frequently, several times, that he had never known Minnie Atkins? A. He did.

Mr. Stuart: You understand, Your Honor, we are objecting to all of this, because it is incompetent, because the testimony was taken by the Government and they had an opportunity then and there in that deposition to impeach this witness.

The Court: Well, I am receiving this on the statement of counsel for the Government that they pleaded surprise and asked this witness if he didn't make these certain statements and that they are tracking those statements. If they are not, it is not supported by the record.

Mr. German: That is true, we are following this record, Your Honor.

Mr. *German:* Well, assuming they are, Your Honor, they can't impeach their own witness in this way.

The Court: Well, I have your objection. Objections noted, overruled, and exception.

Q. Did Richard Nichols state to us there on that occasion in the hotel, either what I shall now read, or this in substance: That Rube Smith went over the testimony of several of the other witnesses with him, referring there to the time he testified or just before he testified in October, 1914, in Leavenworth in the State Court case, and that he heard some of their testimony and that Rube said to him that he just as well make some money out of this, that everybody else was making some money, and that he went on the witness stand and testified to just what

the others were testifying to and they paid him five dollars and promised him some more money and a trip to Oklahoma?

A. He did.

Cross Examination by Mr. Stuart.

Q. You had taken Nichols up to Codding's office, hadn't you Judge? A. Yes, sir, before that.

Q. Mr. Codding was the Warden of the penitentiary?

A. He was not at that time, he was subsequently appointed.

Q. What was he doing at that time?

A. Practicing law.

Q. Well, you had taken Nichols up in Codding's office?

A. Yes.

Q. Did you say anything to Dick there about what would be done with him if he didn't tell the truth?

A. Not a word; he was brought up there by Mr. Codding.

Q. Just answer my question. Did you say anything there about going to the penitentiary if he didn't tell the truth?

A. I don't think I ever mentioned the word penitentiary.

Q. Did you ask him if he knew what would become of him if he didn't tell the truth? A. No, sir.

Q. Did you exhort him to tell the truth?

A. I urged him to tell the truth after he told me he had testified falsely.

Q. Now, you have been the attorney for the Creek Nation, have you? A. Yes, sir.

Q. Been in their service all the time? A. Yes, sir.

Q. And been active in getting all the evidence you could in the case? A. Yes, sir.

Redirect Examination by Mr. German.

Q. Judge, I forgot to ask you: In the hotel when Dick Nichols was there, with you, Mr. Bagley, and myself, did either one of us make any statements to him with reference to his going to the penitentiary?

A. The word penitentiary was not mentioned in the conversation.

Recross Examination by Mr. Stuart.

Q. Judge, do you know in round numbers how much money of the Creek Nation has been spent in this case?

Mr. German: We object to that as improper, irrelevant, and immaterial.

A. I would like to answer that, Mr. German.

The Court: The witness wants to answer. I think the Court will decide with the witness and let him answer.

Mr. German: May I save an exception.

A. I am not able to give you the figures, Judge Stuart, but every cent that has been spent has been attached to my expense account by vouchers and those vouchers show for what the money was spent.

Q. I understand that?

A. And they are all on file with the Superintendent.

Q. But I asked if you could give me the approximate sum that you have spent? A. No, sir, it has been small.

Q. Has it been five thousand dollars? A. No, sir.

Q. Ten thousand dollars?

A. Why, no, it has been, I think outside of my personal expenses it has been considerably under two.

Q. What are your personal expenses?

A. The hotel and expenses to my own services in the case, I would be unable to give you.

Q. Well, has the whole expense been as much as twenty-five thousand dollars? A. Oh, no.

Q. Twenty? A. No, not five.

Q. Where are those vouchers, Judge, filed?

A. With the Superintendent to the Five Civilized Tribes, and the purpose for which every dollar was spent is shown by those vouchers.

Q. And in the conduct of this case, Bartlett and Buell have co-operated with you in the procuring of evidence, haven't they?

A. I don't know just what you mean by co-operating, Judge.

Q. Well, I mean that they have found witnesses and brought them to you?

A. They have reported to us from time to time the names of witnesses whom we have subsequently investigated.

Q. And you have asked them to furnish you whatever witnesses they could, didn't you?

A. No, what they have furnished have been voluntarily.

Q. But you invited the furnishing of witnesses didn't you?

A. We have received from them such information as they have turned over to us and made investigation.

Q. And they have been very active in procuring evidence also? A. I think so.

Q. Do you know who employed Sadie James and Mr. Robinson?

Mr. German: Your Honor, I think that all appears in the record from their cross examination.

The Court: The Judge can tell very quickly.

A. I don't know only what I have heard her say on the witness stand.

Q. Don't know personally. Do you know whether any statement was filed by Bartlett and Buell in Washington, showing the amount that they had expended in this particular case?

A. I understand they have.

Q. Do you know the amount? A. No, sir.

Q. Wasn't it about sixteen thousand and some odd dollars?

A. I don't know, Judge Stuart, I never read the statement. They told me they had filed it with the Secretary of the Interior.

Q. But you have forgotten the amount?

A. I never read the statement, Judge Stuart.

Redirect Examination by Mr. German.

Q. Judge Allen, have you had any investigators in the field in this case?

A. Not particularly confined to this case, I had Mr. McMillian; he has devoted the greater portion of his time to the Atkins case. Before Mr. McMillian went on it Mr. Cook was detailed to me by the Commissioner of Indian affairs. He was not paid out of Creek fund.

Q. He was paid out of other funds?

A. He was in the service of the Department of the Interior and was detailed to me for this work.

Q. Now, Mr. McMillian has made considerable investigation? A. Yes.

Q. And you know James L. Bruff? A. Yes, sir.

Q. He is special agent for the Bureau of Investigation of the Department of Justice?

A. Yes, sir, he has been working on the case.

Q. How long? A. I think nearly a year.

Q. Since sometime possibly in May, 1916, hasn't he?

A. Yes.

The Court: I don't think that will help me any.

Mr. German: I would like to ask the witness one other question. Your Honor may see fit to ask me not to inquire about this.

Q. Judge, what action if any have you taken with relation to the Quinton Garrett application to allot this land, this Thomas Atkins allotment?

A. I will say, Mr. German, when I brought this suit I had never heard, when I recommended the bringing of this suit, I had never heard of the Quinton Garrett interest, it hadn't developed. Afterwards as soon as Quinton Garrett filed and

about that time, others filed on the Thlocco allotment and the River Bed, and other allotments in the Creek Nation. I immediately went to Congress and sought to get action——

Mr. Hanford: Objected to as not responsive to the question.

The Court: Just a moment; your activities Judge, with regard to the Quinton Garrett case—you say——

A. I went to Congress and sought legislation that would withdraw this land from allotment to Quinton Garrett. I was unsuccessful at the first session of Congress and then had an order prepared, and the President of the United States signed it, withdrawing the land by executive order, pending enactment of legislation by Congress, and during the session of Congress—the last session of Congress, I procured the passage of a bill withdrawing the land from allotment.

Q. Did that bill contain any express reference to Quinton Garrett?

A. It did; provided for payment of eight hundred dollars to him in lieu of allotment.

Q. Now, it is the Quinton Garrett you are referring to, is the same Indian Buell and Bartlett are claiming under in this matter? A. That is true.

Cross Examination by Mr. Hanford.

Q. Isn't this a fact that M. L. Mott, one of the attorneys for the Wuinton Garrett interests assisted you in getting the passage of that bill?

A. Oh, no, he fought it vigorously.

Q. Isn't it a fact that he represented to you many times that the bill would be of an advantagge to him because of the prior filing and would shut out other attempted filings?

A. Why, Mr. Hanford, the committee records, that is the committee hearings for the year ending June 30th, 1915——

Q. Well, just answer my question, Judge.

A. Well, I am answering it.

The Court: That is not helping me any in this case.

A. He opposed it in a long argument before the Indian Committee on Indian Affairs.

Witness dismissed.

And thereupon, TAMS BIXBY, a witness produced on behalf of Minnie Atkins, et al., further testified as follows:

Direct Examination by Mr. Stuart.

Q. Mr. Bixby while you were at Okmulgee enrolling Creek citizens with your clerks, was the Creek Attorney there?

A. Yes, sir.

Q. Did he frequently appear before your commission?

A. Yes, sir.

Q. Did he have an opportunity to appear when he desired?

A. Oh, certainly.

Q. Representing the Creek Nation? A. Yes, sir.

Cross Examination by Mr. German.

Q. Who was the Creek Attorney at that time, Mr. Bixby?

A. Mr. McKellop.

Q. Arthur? A. A. T.

Q. Yes, A. T. McKellop. Did he have any assistant there?

A. I don't know; there were several members of committees there, I don't know whether they were Mr. McKellop's particular assistants or not.

Q. The time you are referring to is the time when you were taking care of these unaccounted for names on the tribal rolls just before the original treaty was ratified?

A. Well, we were there at other times and he was there at other times.

Q. Yes, but he was there at that time? A. Yes, sir.

Q. Now, you say he had an opportunity to appear before you and any of the other force that were there?

A. Yes, sir.

Q. He did appear in cases before the Commission where there were contests, did he not, contests in the matter of enrollment?

A. Well, he appear- whenever he felt like it.

Q. Whenever he desired?

A. Whenever he desired, yes, sir.

Q. And in cases where they were contested enrollments where you would swear the witness and take their testimony down in shorthand, and so on, he as a rule conducted cases on behalf of the Creek Nation, didn't he?

A. That was his duty.

Q. Did Mr. McKellop do much of that kind of work?

A. Well, I wouldn't say it was much from my standpoint, but I expect it was much from the standpoint of an Indian officer.

Q. Yes, sir; he was an Indian?

A. Yes, sir, I understood so.

Q. He had the appearance of being an Indian?

A. Yes, sir.

Q. And the Commission itself tried to do the very best it could in the matter of these enrollments, protecting the Government and the Indian and the tribes, didn't it?

A. That was our best endeavor, yes, sir.

The Court: Who initiated the contests that were had, Mr. Bixby? Any particular official that did that?

A. No, sir, anybody was permitted to make a contest.

Q. When the Creek attorney appeared for those contests, contested enrollment cases, the record made up would show his appearance, would it not?

A. If it was taken down by a stenographer, yes, sir; not necessarily if it was not taken down. Of course, we had a good many cases where there was appearance by the tribal officials where there was no testimony taken.

Cross Examination by Mr. Hill.

Q. Mr. Bixby, was Mr. McKellop, a Creek Indian by blood?

A. I understood so, I don't remember now.

Q. He was well acquainted with the Creek people was he not?

A. I understood he was very well acquainted, yes, sir.

Q. And he had a committee of the Creek council serving with him whose duty it was to examine this roll as you were preparing it, was it not?

A. There was such a committee, yes, sir.

Q. That committee was made up of Creeks by blood, was it not? A. I think it was, sir.

Q. Men supposed to be very [] acquainted in the Creek Nation with the people who should go upon the rolls?

A. That is the theory as we understood.

Q. Did your officials and people working under you give Mr. McKellop every facility to see what you were doing—what work you were doing?

Mr. Allen: We object to that; this matter was gone over.

Mr. Stuart: Not this particular matter.

The Court: Overruled.

A. Oh, yes.

Q. So that he knew what you were doing when you had a name under consideration, knew what you were doing?

A. Always had an opportunity to know.

Q. And you gave them what facilities you had for knowing? A. Yes, sir.

Recross Examination by Mr. German.

Q. Of course, Mr. Bixby, you handled a great many enrollment cases I believe you testified about that before?

A. Yes, sir, a great many.

Q. Yes, sir, and there was quite an office force engaged in assisting the Commission in this work? A. Yes, sir.

Q. And the tribal attorney and the committeemen that you referred to, were in and out of the office now and then and when they desired to take up any enrollment case with you, they did so? A. Yes, sir.

Q. But you are not prepared to say that they examined every enrollment case, are you, every card?

A. No, sir, I wouldn't say that; I couldn't say it.

Q. Mr. McKellop, or whoever was the Creek Attorney, at any particular time during the course of your work, did not stay with you and go over these cards, did they?

A. No, sir.

Witness dismissed.

And thereupon, F. B. FITE was called and sworn as a witness for and on behalf of Minnie Atkins, et al., in sur-rebuttal and testified as follows:

Direct Examination by Mr. Stuart.

Q. What is your name? A. F. B. Fite.

Q. Where do you live? A. I live in Muskogee, Oklahoma.

Q. How long have you lived in this country?

A. Since 1883.

Q. What is your business?

A. I am a physician and surgeon.

Q. How long have you been such? A. Since eighty-six

Q. Since '86. Graduate of any medical university?

A. Graduated from the Southern Medical at Atlanta, Georgia, it is a branch of the university, Emery University.

Q. Doctor, have you had any experience in obstetrics?

A. Yes, sir.

Q. Now, doctor, if you were to attend a young woman in child birth and there were no persons around from whom you could get information, would you make an examination of your patient? A. Yes, sir, do that anyway.

Q. Do that anyway? Now, Doctor I will ask you whether or not the first or subsequent labors are the most trying and dangerous, which is?

A. Well, the first labor is the most trying.

Q. The first labor is the most trying? A. Yes, sir.

Q. I will ask you whether or not the prudent physician endeavors to ascertain whether the child that the woman is having is the first child?

Mr. Pinson: Objected to as leading, if the Court please.

The Court: Overruled.

Mr. Pinson: Exception.

A. Well, it is his duty to find out the condition of the patient, whether or not she can give birth and the stage of labor she is in; and in doing that it is his duty to find out whether or not it is a primipara, that is first child, or what we call a multipara, one that has had children before; and second, it is his duty to find out the position of the child and find out the condition of the soft part as well as the bony part, see what trouble if any he is to encounter other than a normal labor.

Q. Now, Doctor, the laceration of the servic and the uterus more frequently occurs in first labors than they do in the second and third ordinarily?

A. They are unless there has been an operation, sewing up the servic of a previous labor.

Q. Unless there has been an operation? A. Yes, sir.

Q. Now, Doctor, suppose you were to attend a young woman in labor and you were to find by hand or finger examination of the uterus certain pronounced notches near the mouth of the servic and inside, what would you say had produced that?

A. I would reach a conclusion that she had had some lacerations of the servic and that in healing they had produced those notches; that would be my first mission.

Q. That would be your first mission?

A. And that she had given birth before.

Q. And that she had given birth before? A. Yes, sir.

Q. Doctor, are these notches in the servic indications to an expert physician that in the absence of some disease or some practice with instruments that a child has been born prior to that time?

A. Certainly, that something had come out of the uterus and naturally you would think it was a child.

Q. And do those notches follow lacerations from child birth?

A. Yes, sir, they follow lacerations unless they are repaired.

Q. Unless they are repaired? A. Yes, sir.

Mr. Stuart: That is all

Cross Examination by Mr. Pinson.

Q. Doctor, the question first asked you by Judge Stuart presupposed that there were no persons around to make inquiry of. Upon whom is that inquiry or to whom is that inquiry usually addressed as to whether a woman has had a child? A. Usually to the patient.

Q. You ordinarily accept her statement as true?

A. Well, it is worth something to the doctor.

Q. The purpose of ascertaining whether or not a previous labor has been had is then to elicit the history of that labor, is it not, in order that you may tell in advance whether you will probably encounter trouble in this labor?

A. Yes, sir, along that very line, that you would want to know whether she had had trouble before, and if she had had children and if there had been any trouble at that time; and if she had had an operation and if it had been instrumental, and things of that kind.

Q. Yes, sir, now Doctor, if you found that a woman had theretofore given birth to a child before or by any means, your next inquiry would be naturally the history of that particular labor wouldn't it?

A. Well, I might proceed—I am just judging from my own record, that I do—is to make an examination to see the stage of labor that my patient is in and the position of the child.

Q. Now, that examination, if made during labor, would naturally be made first for the purpose of ascertaining the position of the child and the stage of labor, wouldn't it?

A. Yes, sir.

Q. Now, if you had an opportunity to ask the patient or the husband of the patient, or the man you supposed to be the husband of the patient, whether there had been a prior child, would you naturally make a physical examination to determine that fact?

A. Yes, sir, I would make a digital examination to ascertain the stage of labor.

Q. But I mean to determine the particular fact as to a prior birth?

A. No, I wouldn't necessarily do it for that. That isn't very material whether she had had a child or not, because you have got to go through with whatever is there anyway, and the most important thing is to find the position, is to find out any obstruction and the condition of the child and stage of labor.

Q. Now, if there had been a peculiar history connected with the first labor, if there has been a prior labor, or if there has been any abnormal labor, that is the thing you want to know, isn't it?

A. Yes, you want to know about that.

Q. The examination that is made is primarily for the purpose of determining the bony structure, the condition of the soft part, and the position of the child, isn't that true?

A. Yes, sir.

Q. Is it natural, Doctor, in making that examination to ascertain, I mean in making that examination, do you naturaliy move the fingers in such a way as to ascertain whether or not there are notches on the servic?

A. Well, in examining a case, if you are in the first stage of labor and the servic isn't thinned out, the first stage of labor extends from the time the labor begins, dilation begins until there is full dilatation, that is the first stage of labor. And if you examine it before that time you naturally run up against the notches more distinctly than you would during the second stage when the womb itself has spread out thin, and before any tears have taken place in the servic, which usually occurs if there has never been a servic tear before.

Q. Now, if the fingers, Doctor, are put into the servic it is then that those notches are not as perceptible, as readily as if the fingers were run around the outside of the servic, isn't that true?

A. Well, these tears begin in the servic, the womb has a neck to it, you know.

Q. Yes, sir?

A. And we call those lacerations because in passing of the child's head it gives way; that will leave little notches there, leave four or five maybe on one side; unilateral, but they always leave little notches there, notches where the tissues tear and little places are left there which you afterwards sew up.

Q. Now, Doctor, where you feel those notches are in the mouth of the service?

A. Yes, right on the mouth of the servic.

Q. What I am getting at, if the fingers are inserted in the servic, or one finger, the tactical nerves do not come in contact with the notches themselves, the tip ends of the fingers?

A. Not unless you struck them as you went in. You probably would feel around to see what the condition is.

Q. You would be making that examination for the purpose of determining whether the notches were there or not?

A. Well, for anything that might be wrong.

Q. Would you ascertain that when the finger was inserted for the purpose of determining where the fontanelle was in determining the position of the child?

A. In the first stage of labor, ordinarily, you could hardly reach the fontanelle.

Q. The first stage of labor is the period of dilatation, is it not? A. Yes, sir.

Q. During the first stage of labor dilatation takes place at the mouth of the uterus, is that true? A. Yes, sir.

Q. The multipara dilates more rapidly at that point than the primipara?

A. Unless there has been bands to tie it down.

Q. I am speaking of the ordinary case?

A. Yes, they have easier labor.

Q. Now, Doctor, what has been your experience as to the development of the external os in the multipara, as to whether it is open ordinarily at the beginning of labor?

A. More so than a primipara.

Q. Doctor, the diagnosis of previous labor by mere digital examination while the woman is in labor is not a satisfactory diagnosis, is it?

A. Beg pardon, I didn't understand that.

Q. The diagnosis of a previous labor made from a digital examination of the servic, and that alone, while the woman is in labor, is not a satisfactory diagnosis, is it?

A. Well, I think you could tell, I believe I can, always have been able to tell whether or not to my satisfaction, as far as my recollection goes now as to whether or not a woman has been confined by the soft tissues.

Q. You mean to say you can determine whether there had been lacerations?

A. You will find the servic more open, and you don't get the fine particles of mucus membrane and feather edge condition that you do in primipara, because some of it has been torn away by child birth.

Q. I understand that there are numerous changes which take place at the birth of the first child apparent to the eye of the trained physician, or finger of the trained physician?

A. Yes.

Q. But the mere fact that the finger detects certain notches upon the servic and no other symptom whatever, would you immediately make the diagnosis of a previous labor without any other symptom?

A. Well, it would raise my suspicion that something had come out of that uterus, I wouldn't swear positively that she hadn't been——

Q. You wouldn't make a positive diagnosis on that one point?

A. If I should find this there and she had not had a child before I would look for tumors in that womb.

Q. This might be caused by an operation?

A. Yes, it could do that.

Q. And again the same condition might be caused by disease?

A. I can hardly imagine disease causing it unless it would be something of a cancerous character or specific disease that destroyed tissue.

Q. That would leave a similar condition?

A. It would be somewhat similar, there would be a loss of tissue there.

Mr. Stuart: That is all, Your Honor.

(Witness dismissed.)

The Court And that ends the testimony.

Government's Exhibit A-1.

C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Census Card No. 2707.]

Government's Exhibit A-2.

C.T.D.

[See insert herewith for reproduction of photostatic copy of page of 1895 Creek Pay Roll, Euchee Town.]

Government's Exhibit A-3.

320

Muskogee, Ind. Ter., March 1, 1902.

The Honorable,

The Secretary of the Interior,

Washington, D. C.

Sir:

The Commission transmits herewith, for your approval, partial roll of citizens by blood of the Creek Nation, numbered 7825 to 8312, inclusive, whose names have been regularly listed for enrollment on Creek Indian cards, numbered 2665 to 2877, inclusive, who were living on the first day of April, 1899, or born to citizens so entitled to enrollment, up to and including the first day of July, 1900, and then living, as provided by Act of Congress, approved March 1, 1901, and are found either upon the 1890 or 1895 authenticated Creek Rolls, or who are descendants of persons whose names are found upon said rolls, born since said rolls were made; or were ad-

Muskogee Land Office. CREEK Nation. CREEK Roll.

Card No. 2707
Field No. 2774

13	Atkins Thomas	10 M	Yr	1875	Euchee	2/3	White man	Minnie Atkins 1875 Euchee

(2 miles Bing blk Muskogee land office)
Letter of May 1 1903 from the Commissioner to the Five Civilized Tribes directing action to be suspended in matter of enrolling dead children of N.B.

N - 2913 MEMCH
Atkins March 25, 1903.

DATE OF APPLICATION FOR ENROLLMENT
May 23, 1901

ENTERED CARD
JUN 27 1902

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Indian Census Card No. 2707.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Feb 11 1915 CHD

Cuchee

TOWN.

NUMBER.		NAME.								DATE OF RECEIPT.
										1840
No 2	1	Mary Ann	Mingo	92		1370	60	Tom the Mingo Reservation	Cornelius Carr	Sept. 24th
	6	Sarah								
	1	3 Charles		Dead						
	8	4 Wiley								
	9	1 Ed	Bemmeder	307		2419	10 40			
210	7	Nancy	Atkins	1015		V 2053	760	Jemmie & Atkins	Cornelius Carr	Sept. 24th
	11	3 Charles	Atkins	1659		2053			Cornelius Carr	Sept. 24th
	12	4 Lucas	Atkins (Cherokee)							
	13	5 Thomas	Atkins							
	14	6 Harvey	Atkins							
	15	7 Nancy	Atkins	1559		2053				
	16	1 John	Davis	2032		3066	60	Samuel Brown	Cornelius Carr	Sept. 24th
				117		1558	40			
							14 40			
	17	1 N. G.	Gregory	714		1823	72 00	N. H. Brown	Cornelius Carr	Sept. 24th
	18	2 Carrie	Gregory	114		1823		N. H. Gregory	Cornelius Carr	Sept. 24th
	19	3 Gale	Gregory	(Cherokee)						
210	20	4 Two	Gregory							
	1	5 Ira H	Gregory	714		1823				
	2	6 Lucie G	Gregory	714		1823				
	3	7 Paulina	Gregory	714		1823	3000			
							1440			
	4	1 Jim	Crow	2027	8	22	4000	M. H. Brown	Cornelius Carr	Sept. 24th
							5760	M. H. Brown	Cornelius Carr	Sept. 24th
	5	1 Jennie	E Wallace	917		1804				
	6	2 Jennie	E Black	917		1804				
	7	3 Betsey	Brown	917		1804				
	8	4 Alice	Brown	917		1804	5760			
	9	1 Rosa	Harrison	1004		1808	14 40	Rosa Harrison	Lic Ind	Cornelius Carr	Sept. 24th
							500			
210	10	1 Mary	Drake	1015		V 1808	2880	Rosa Harrison	Lic Ind	Cornelius Carr	Sept. 24th
	1	2 Mary A.	Drake	2716		1808	1440			
	2	1 Rosa	Wilson	915	49	1808	4000	Rosa Harrison	Lic Ind	Cornelius Carr	Sept. 24th
	3	2 Lucie	Walker	915	11	1805	4000			

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page 1895 Creek Pay Roll, Euchee Town, covering Nos. 205 to 233, inclusive.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

mitted to citizenship by the Commission to the Five Civilized Tribes, or by the United States Court on appeal under the provisions of Act of Congress approved June 10, 1896, or who are descendants of persons so admitted, born since such admission; or were duly and lawfully admitted to citizenship by the Creek National Council, or by the legally constituted Commissions and Courts of said Creek Nation, or who are descendants of persons so admitted, born since such admission.

Here follows, in same order as roll, table showing tribal enrollment (if found on rolls), and such other data as will enable complete identification of all:

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No.	Name.	Roll.	Roll.	Town.	Remarks.
7908	McGilbra, Annie	1890	1895	Tulmochussee	
7909	"De-con-sac"	1890	1895	Euchee	
7910	"Ja tah ko con cah ney"	1890	1895	Euchee	
7911	"Nicey"			Euchee	Dau. of 7909-7910
7912	Berryhill, Geo. Franklin	1890	1895	Broken Arrow	
7913	Atkins, Thomas		1895	Euchee	
7914	Ah la ah co ta ney	1890	1895	Euchee	
7915	Co ah	1890	1895	Euchee	
7916	Yar star co con thla ney	1890	1895	Euchee	
7917	Nettie	1890	1895	Euchee	
7918	Do saw cher		1895	Euchee	
7919	Cah co ke thlon	1890	1895	Euchee	
7920	Ar tar kin nay	1890	1895	Euchee	
7921	Bennett, Gertrude	1890	1895	Hitchete	
7922	Bennett, Lonie	1890	1895	Hitchete	
7923	Bennett, Leo E.		1895	Hitchete	
7924	Stidham, Clifford	1890	1895	Hitchete	
7925	Stidham, Albert P.	1890	1895	Hitchete	
7926	"Co yar kah"	1890	1895	Euchee	
7927	"Nellie"		1895	Euchee	
7928	"Lar-we-saw"		1895	Euchee	
7929	"San-nor-ka"	1890	1895	Euchee	
7930	Bonbee	1890	1895	Euchee	
7931	She qua bee	1890	1895	Euchee	
7932	Com me see	1890	1895	Euchee	
7933	Shar shon tey		1895	Euchee	
7934	Harjo, Chitto	1890	1895	Arbeka D. F.	
7935	Unussee, Barnosee	1890	1895	Okfuske D. F.	

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The Commission, after having thoroughly examined the rolls of the Creek Nation and such evidence as has been submitted, touching the identification of the persons on roll here-

with submitted, is of the opinion that all are entitled to enrollment as Creek citizens by blood, and should be so enrolled.

Respectfully submitted,

COMMISSION TO THE FIVE CIVILIZED TRIBES,

.....

Acting Chairman,

T. B. Needles,
Commissioner,

C. R. Breckenridge,
Commissioner.

Through the Commissioner of Indian Affairs.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Pages Nos. 320, 324 and 339 of letter press copy book No. 1. Transmitting Creek Roll Citizens by blood to the Secretary of the Interior for approval.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-4.

(Blank 731.)

CREEK ROLL INDIANS BY BLOOD.

Number, 7913; Name, Atkins, Thomas; Age, 10; Sex, M; Blood, ½; Card No., 2707.

Department of the Interior, United States Indian Service, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the approved rolls of the citizens or members of the Five Civilized Tribes of Indians, and that the above and foregoing is a true and correct copy of that portion of one of said rolls as above described, covering the persons enrolled opposite the numbers indicated.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-5.

29. Application No. .....

Department of the Interior, Commission to the Five Civilized Tribes.

CREEK NATION.

To the Clerk of the Land Office at Muskogee:

This is to certify that the name of Thomas Atkins (Roll No. 7913) Age 10 appear- on Creek Census Card of the Creek Nation, Field No. 2774 of record in the office of the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, June 27th, A. D. 1902.

W.H.A. Tams Bixby, Acting Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land in said tribes, and that the above and foregoing is a true and correct copy of Creek Citizenship Certificate issued for Thomas Atkins, Roll No. 7913.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-6.

Muskogee, Indian Territory, May 24, 1902.

A session of the Commission to the Five Civilized Tribes was held at its general office at Muskogee, Indian Territory, on the above date, there being present Commissioners Bixby, Needles, and Breckenridge.

* * * * * * * * * *

Whereas, section three of the Act of Congress approved March 1, 1901 (31 Stat. 861), known as the Creek agreement, provides that:

"All lands of said tribe except as herein provided shall be allotted among the citizens of the tribe by said Commission so as to give to each citizen an equal share of the whole in value as nearly as may be,"

And that

"* * * There shall be allotted to each citizen one hundred and sixty acres of land,"

and

"* * * each citizen shall select from his allotment forty acres of land as a homestead,"

and that

"* * * if for any reason such selection shall not be made for any citizen, it shall be the duty of said Commission to make selection for him,"

and

"Whereas, numerous citizens of said nation have made no selection of land for allotment and others have made selection of only a portion of the land to which they are entitled, and,

"Whereas, after due notice given, many citizens of said nation have failed to make a selection of a homestead, therefore, be it

"Resolved, That the acting chairman is hereby authorized and empowered by and on behalf of the Commission to allot to each citizen out of the lands of the Creek Nation not heretofore allotted or selected such an amount of land of at least average quality as will make the total allotment of each citizen one hundred and sixty acres, and to select a homestead for such citizens in all cases where a selection of a homestead has not been made by or on behalf of said citizen:

Provided, That the allotment and selection of homestead so made for a citizen shall include improvements shown by the plats or records of the office to belong to said citizen."

On motion of Commissioner Breckenridge, duly seconded, the same was unanimously adopted.

* * * * * * * * * *

There being no further business before the meeting the Commission on motion was adjourned.

(Signed) Tams Bixby, Acting Chairman.

Attest: A. L. Aylesworth, Secretary.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

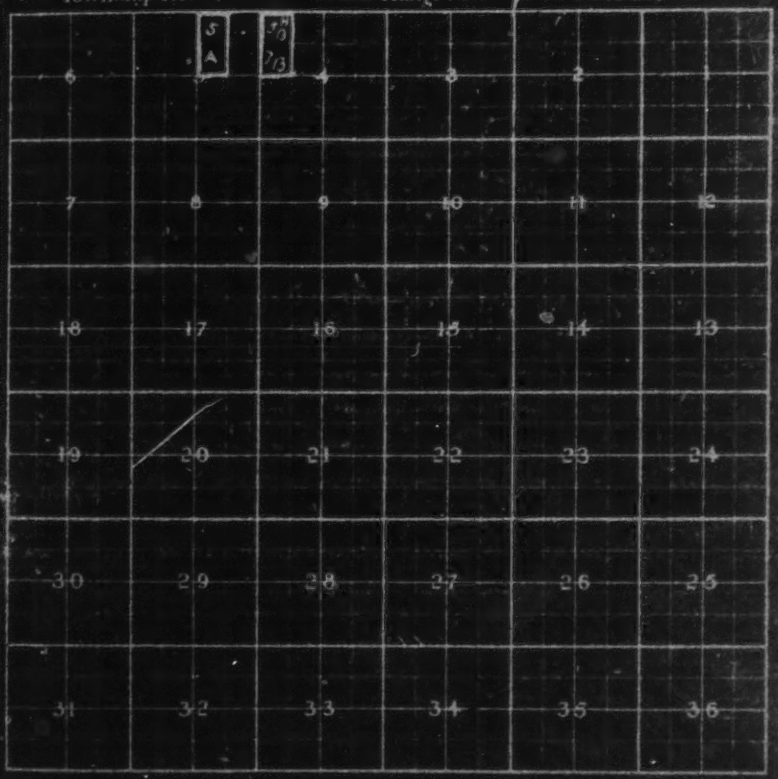
This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

(51)

DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

Township No. 18 Range No. 7



Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Memoranda Plat designating the land arbitrarily allotted to Thomas Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

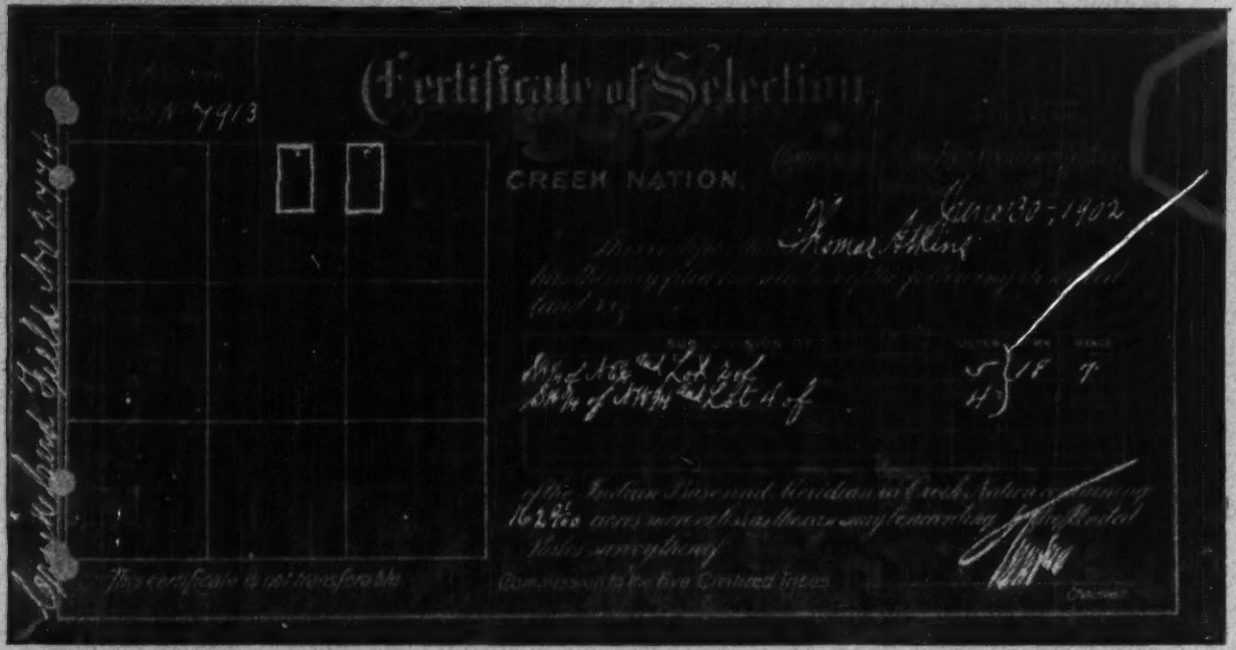
April 25 1917 JRP

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Allotment and Homestead designation of land in the Creek Nation for Thomas Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 10 1916 J.S.H.



Certificate of Selection.

CREEK NATION.

This certificate is not transferable

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Allotment Certificate No. 16983.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Department of the Interior.

Allottees

Roll No. 1913

Commission to the Five Civilized Tribes.

Selection

No. 16883.

Muskogee, Ind. Ter. Feb 6 1902

Noma Athey.

Sub. Division of	Section	Town	Range
[illegible]	5	17	[illegible]

Original delivered to

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Creek Allotment Certificate Stub Selection No. 16983.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

April 25 1917 JRP

		16957	5-8-03
		16958	"
		16959	"
		16960	5-8-03
Johnson	Harjo	Holdenville	16961 · 5-8-03
Lucy Knight		Morse	16962 "
Johnson	Sampson	Okfuskee	16963 "
Lulu Bowlegs		Wewoka	16964 "
Barney	Marshall	Morse	16965 "
			16966H "
			16967H "
			16968H "
			16969H "
			16970H "
	Sunday	Thurman	16971 "
	Rowlby	Eufaula	16972 "
			16973 "
			16974 "
			16975 "
			16976 "
	McIntosh		16977H "
	Barlow		16978 "
			16979 "
Willie	Jones	Bushhill	16980 "
	Harjo	Seneca	16981 "
	Vargus	Eufaula	16982H "
			16983H "
Amy	Thurman		16984 "
Belle	Lucas		16985 H "
Barney	Tiocco	Arbeka	16986 "
Thomas	Connor	Eufaula	16987 "

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page No. 193 Mailing Book of Creek Allotment Certificates.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Creek Nation. Exhibit No. 12.

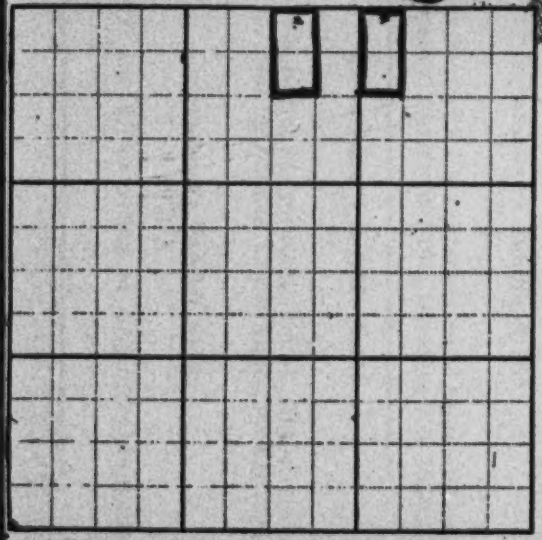
Allottees
Roll No. 7913

Certificate of Selection.

Selection
No. 16983

CREEK NATION.

Commission to the Five Civilized Tribes.
Muskogee Land Office.
June 30, 1902.



This certificate is not transferable.

This certifies that Thomas Atkins has this day filed his selection of the following described land, viz:

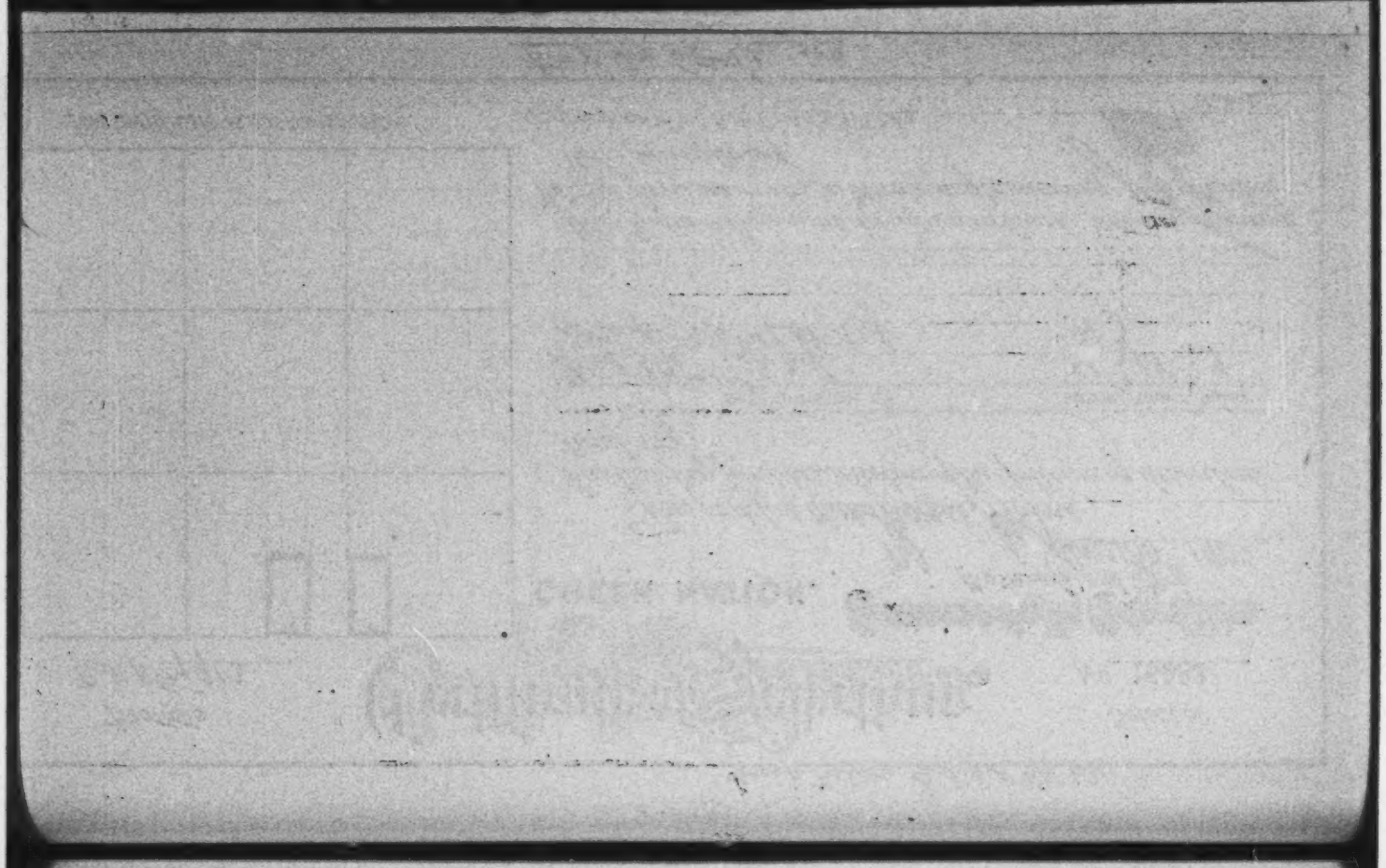
SUB-DIVISION OF	SECTION	TOWN	RANGE
SW¼ of NE¼ and S½ of NW¼ and NE¼ of SW¼	5	18	7
SE¼ of NW¼ and NE¼ of SE¼	4		

of the Indian Base and Meridian in Creek Nation containing 162.24 acres more or less as the case may be according to the United States survey thereof.

Commission to the Five Civilized Tribes.

Chairman.

Govt Ex 9-12 etc



the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of excerpts from the minutes of a session of the Commission to the Five Civilized Tribes held May 24, 1902, at its general office at Muskogee, Indian Territory.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

JRP Apr 25 1917

Government's Exhibit A-7.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Memoranda Plat designating Thomas Atkins allotment.]

Government's Exhibit A-8.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Allotment and Homestead designation of land for Thomas Atkins.]

Government's Exhibit A-9.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Allotment Certificate No. 16,983.]

Government's Exhibit A-10.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Creek Allotment Certificate Stub, selection No. 16,983.]

Government's Exhibit A-11.
C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 193, Mailing Book of Creek Allotment certificate.]

Government's Exhibit A-12.
C.T.D.

[See insert for reproduction of original Certificate of Selection, No. 16,983.]

Government's Exhibit A-13.

C.T.D.

Homestead Deed. (39) Creek Indian Roll, No. 7913.

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To all Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congres approved March 1, 1901 (31 Stats., 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, The said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as a homestead,

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

Lot Four (4) of Section Four (4), Township Eighteen (18) North, and Range Seven (7) East,

of the Indian Base and Meridian, in Indian Territory, containing Forty One & 16/100 (41.16) acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to the conditions provided by said Act of Congress and which conditions are that said land shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years; and subject, also, to provisions of said Act of Congress relating to the use, devise and descent of said land after the death of the said Thomas Atkins; and subject, also, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200)

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. Porter,

Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, Approved May 8 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk. LRS

(Endorsed on back:) Commission No. 13662 Homestead Deed—(39) Muskogee (Creek) Nation to Thomas Atkins. Indexed. Compared. Filed for record on the 16 day May, 1903, at 4 o'clock P. M., and recorded in Book L, page 310. Commission to the Five Civilized Tribes, T. B. Needles, Commissioner. File No. 7017 Department of the Interior, Received. May 4 1903 Enc. No. .... of No. .... Indian Territory Division. Department Received Apr 27 1917 Encl. to No. 2666 Supt. Five Civilized Tribes.

Government's Exhibit A-14.

C.T.D.

Allotment Deed. (40) Creek Indian Roll, No. 7913

THE MUSKOGEE (CREEK) NATION, INDIAN TERRITORY.

To all Whom These Presents Shall Come, Greeting:

Whereas, By the Act of Congres approved March 1, 1901 (31 Stats., 861), agreement ratified by the Creek Nation May 25, 1901, it was provided that all lands of the Muskogee (Creek) Tribe of Indians, in Indian Territory, except as therein provided, should be allotted among the citizens of said tribe by the United States Commission to the Five Civilized Tribes so as to give to each an equal share of the whole in value, as nearly as may be, and

Whereas, It was provided by said Act of Congress that each citizen shall select, or have selected for him, from his allotment forty acres of land as a homestead for which he shall have a separate deed, and

Whereas, The said Commission to the Five Civilized Tribes has certified that the land hereinafter described has been selected by or on behalf of Thomas Atkins, a citizen of said tribe, as an allotment, exclusive of a forty-acre homestead, as aforesaid,

Now, Therefore, I, the undersigned, the Principal Chief of the Muskogee (Creek) Nation, by virtue of the power and

authority vested in me by the aforesaid Act of the Congress of the United States, have granted and conveyed and by these presents do grant and convey unto the said Thomas Atkins all right, title and interest of the Muskogee (Creek) Nation and of all other citizens of said Nation in and to the following described land, viz:

> The South West Quarter of the North West Quarter of Section Four (4), and the South West Quarter of the North East Quarter, and Lot Two (2) of Section Five (5), Township Eighteen (18) North, and Range Seven (7) East,

of the Indian Base and Meridian, in Indian Territory, containing One Hundred and Twenty and 85/100 (120.85) acres, more or less, as the case may be, according to the United States survey there thereof, subject, however, to all provisions of said Act of Congress relating to appraisement and valuation and to the provisions of the Act of Congress approved June 30, 1902 (Public No. 200).

In Witness Whereof, I, the Principal Chief of the Muskogee (Creek) Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this 14th day of April, A. D. 1903.

(Seal) P. Porter,

Principal Chief of the Muskogee (Creek) Nation.

Department of the Interior, Approved May 8 1903. Thomas Ryan, Acting Secretary. By Oliver A. Phelps, Clerk. LRS

(Endorsed on back:) Commission No. 13663 Allotment Deed.—(40) Muskogee (Creek) Nation to Thomas Atkins. Indexed. Compared. Hold up see index Filed for record on the 16th day of May, 1903, at 4 o'clock P. M., and recorded in Book 12, page 310. Commission to the Five Civilized Tribes. T. B. Needles, Commissioner. File No. 7017. Department of the Interior, Received. May 4 1903 Enc. No. .... of No. .... Indian Territory Division Department Received Apr 27 1917 Encl. to No. 2666 Supt. Five Civilized Tribes.

Government's Exhibit A-15.
C.T.D.

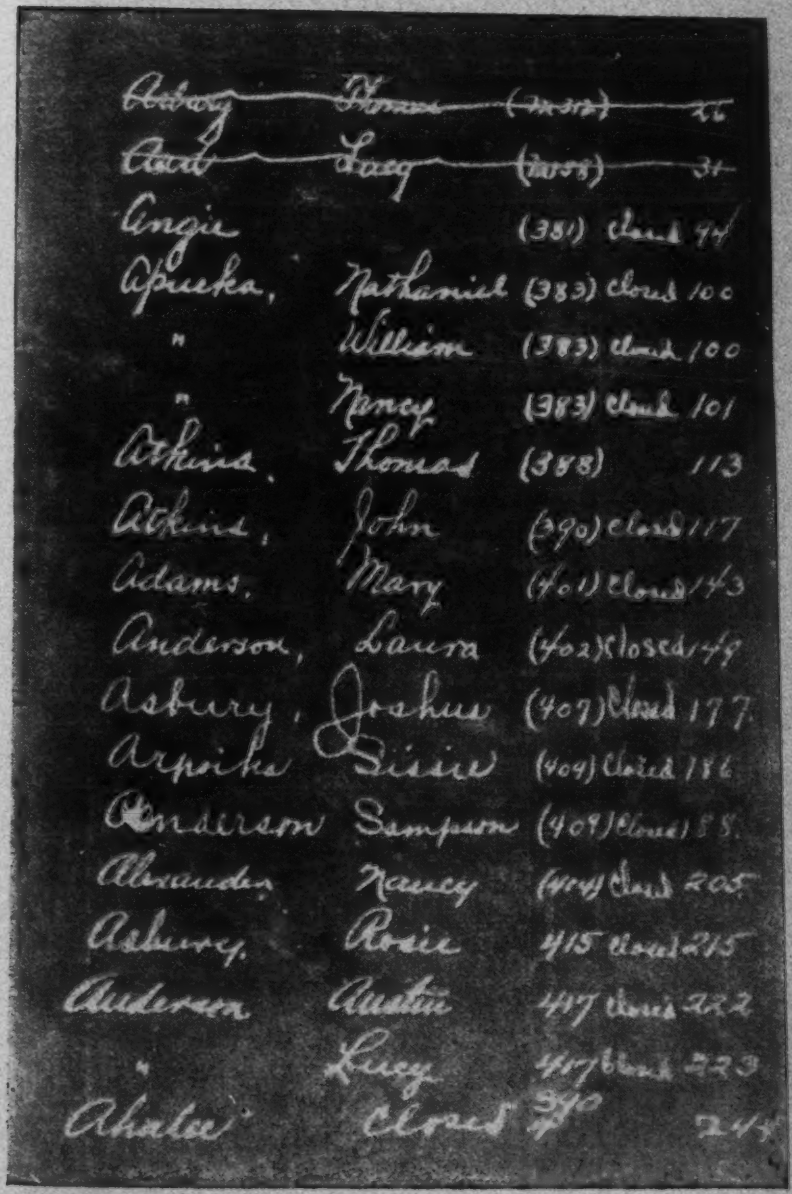
[See insert herewith for reproduction of photostatic copy of page 16, Index and Record Book of Delivery of Deeds for lands allotted in the Creek Nation.]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page 16, Index & Record Book of Delivery of Deeds for land allotted in Muskogee (Creek) Nation.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916



Asbury Thomas (illegible) 26
Auld Lucy (illegible) 31
Angie (381) Closed 44
Apsuka, Nathaniel (383) Closed 100
" William (383) Closed 100
" Nancy (383) Closed 101
Atkins, Thomas (388) 113
Atkins, John (390) Closed 117
Adams, Mary (401) Closed 143
Anderson, Laura (402) Closed 149
Asbury, Joshua (407) Closed 177
Arpaika Sissie (409) Closed 186
Anderson Sampson (409) Closed 185
Alexander Nancy (409) Closed 205
Asbury, Rosie 415 Closed 215
Anderson Austin 417 Closed 222
" Lucy 417 Closed 223
Ahalee Closed 240 244

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of One page Index Book to "M" Journal.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Government's Exhibit A-16.
C.T.D.

Refer in reply to the following: M-388 EBM

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinbridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 11, 1905.

H. G. Hains,

Chief Clerk Creek Enrollment Division,

General Office.

Dear Sir:

Your File Cr. I. 2774. Deeds covering the allotment to Thomas Atkins, Creek Indian Roll No. 7913 are held by the Creek Allotment Division pending further instructions. This office has no notification of the death of said Thomas Atkins.

Respectfully,

Tams Bixby, Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of A letter from the Commissioner to H. G. Hains dated May 11th, 1905.

GABE E. PARKER,

Superinendent for the Five Civilized Tribes.

P.H. Jul 10 1916

Government's Exhibit A-17.
C.T.D.

[See insert herewith for reproduction of photostatic copy of one page Index Book to "M" Journal.]

Government's Exhibit A-18.
C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 113 of "M" Journal.]

Government's Exhibit A-19.
C.T.D.

[See insert herewith for reproduction of photostatic copy of one page of Index to Special Creek Memorandum Book.]

Government's Exhibit A-20.
C.T.D.

[See insert herewith for reproduction of photostatic copy of page No. 124 Special Creek Memorandum Book.]

Government's Exhibit A-21.
C.T.D.

Refer in reply to the following: Cr I-2774 HGH

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

Will Robison,
Muskogee, Indian Territory.

Dear Sir:

The Commission has been informed that you know the present address of one Minnie Atkins, whose testimony is desired in a matter pending before the Commission.

You are requested to inform the Commission as to the present address of said Minnie Atkins, if the same is known to you.

Respectfully,
T. B. Needles,
Commissioner in Charge.

Dont know W. R. Robison 9/10/1905

(Endorsed on back:) Commission to the Tribes. No. 24111 1905 Received May 11 1905 Entered Book .. page ..

C7912 388 Thomas Atkins 764 1862-3.

C7205 388 Hyman Brunes 5418-19

Rel[d] Chief [illegible] 2 C.C. reporting allotte
Secured Creditors in Attorney filed Chart

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page No. 113 of "M" Journal.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Anderson	Starr	Old	2	127
"	Alma	Old	"	128
"	Lottie	Old	"	128
"	Charles	Old	"	129
Asbury	Thomas		4	108
Artussee	Mary	Old	"	121
Ard	John	Old	5	14
Annie		Old	"	95
Asbury	Mary	Old	"	125
Anderson	Nashville	Old	5	135
"	Richard	Old	"	1-
Angie			7	81
Apueka	Nathaniel		"	93
"	William		"	94
"	Mary		"	95
Atkins	Thomas		"	124
"	John		"	135
Adams	Mary		8	42
Anderson	Laura		8	47

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of One Page of Index to Special Creek Memorandum Book.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

1:24

Opin 388 Alvin Thomas Plff
vs
Edward Erdman Deft } Appeal from Circuit Court of Frederick Co.
Record and Opinion filed herein
Sept 26th 05 by Clk McDermott Mandate
5-10-05 Returned Erdman 5/11/05

469

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes and that the above and foregoing is a true and correct copy of Page No. 124, Special Creek Memorandum Book.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 18 1916 J.S.H.

Indexed N. A. Robison, W. R., Muskogee, I. T., May 10, 1905. States he does not know present address of Minnie Atkins. Creek enrollment.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of A letter from Commissioner in Charge to Will Robison dated May 9th, 1905.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

P.H. Jul 10 1916

Government's Exhibit A-22.
C.T.D.

Indexed Cr I-2774 371

Muskogee, Indian Territory, May 9, 1905.

Noah Gregory,

Sapulpa, Indian Territory.

Dear Sir:

The Commission has been informed that Thomas Atkins is dead.

The law provides that in case of a deceased citizen, the lands and moneys to which such citizen would be entitled, if living, shall descend to his heirs and be allotted and distributed accordingly.

It is desired that you cause the enclosed form of death affidavit to be filled out and properly executed by some person, near relative preferred, who knows the date of said Thomas Atkins' death, and return it to the Commission in the enclosed envelope.

Respectfully,

.....

1 D A Commissioner in Charge.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Page No. 371 of Letter press book No. 540.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

P.H. Jul 18 1916

Government's Exhibit A-23.

C.T.D.

M 388 HGH

Refer in reply to the following: Cr. I-2774

Commissioners: Tams Bixby, Thomas B. Needles, C. R. Breckinridge. Wm. O. Beall, Secretary.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the Commission to the Five Civilized Tribes.

Muskogee, Indian Territory, May 9, 1905.

E. B. Miller,
Chief Clerk Creek Land Office.

Dear Sir:

A question having arisen affecting the citizenship rights of Thomas Atkins (deceased), on Creek Indian card, field No. C7913 2774, you are hereby directed to suspend action in the matter of issuing deeds to the heirs of said Thomas Atkins (deceased) until you are further advised.

Respectfully,
T. B. Needles,
Commissioner in Charge.

Deeds C13662-3 M 388—5/11/05

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from the Commissioner in Charge to E. B. Miller, Chief Clerk Creek Land Office dated May 9th, 1905.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

P. H. Jul 10 1916

Government's Exhibit A-24.
C.T.D.

DF

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs.

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear in the files in this office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, on the day and year first above written.

(Seal)

C. F. HAUKE,
Acting Assistant Commissioner.

(Stamps:) Office of Indian Affairs Received Aug 4 1916 83856 Received Supt. 5 Civ. Tribes Aug 11 1916 Enclosure to Dept. No. 5193 Gt. JSD 4. 16 1 C 30

Moty Tiger, Principal Chief; Maude D. Roberts, Private Secretary; G. W. Grayson, Interpreter. Probate Attorneys: Frank L. Montgomery, Muskogee; Wm. M. Harrison, Muskogee Joe H. Ford, Wagoner; Nat Ligon, Sapulpa; Alex. Johnston, Okmulgee; Lafayette Walker, Holdenville.

R. C. ALLEN
National Attorney for Creek Nation
Muskogee, Oklahoma
Room No. 209, Indian Office,

Washington, D. C., August 4, 1916.

Hon. Cato Sells,
Commissioner of Indian Affairs,
Washington, D. C.

My dear Mr. Sells:

I have the honor to report to you the recent finding of the allotment certificates and patents issued to and in the name of Thomas Atkins, together with certain records of the Commission to the Five Civilized Tribes showing the initiation of proceedings in 1905 looking to an investigation into the citizenship of Thomas Atkins and to suggest that the Secretary of the Interior has at all times since then, and now has, jurisdiction to complete said investigation, and in the event it is found by him that Thomas Atkins was not entitled to be

enrolled and allotted, to strike his name from the rolls and refuse a patent to him or his alleged heirs.

On the 17th day of October, 1914, I reported to the Department of the Interior the facts upon which the Department of Justice was requested to, and did, bring an action in the United States Court for the Eastern District of Oklahoma to cancel the enrollment of Thomas Atkins and the allotment certificates and patents issued in his name. At that time the officers in charge of the records of the Commission to the Five Civilized Tribes were unable to find the allotment certificates or patents issued in the name of Thomas Atkins and it was, therefore, believed that they had been inadvertently delivered, and I so reported that they had been delivered. About two weeks ago these certificates and patents were found but out of their proper place, and the notations thereon led to the discovery of other records, not theretofore found, showing that in 1905 the Commission obtained information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation and immediately the patents were recalled from the Principal Chief of the Creek Nation, to whom they had been forwarded for delivery to the allottee and were held up pending an inquiry which was then begun to determine whether or not Thomas Atkins was entitled to be enrolled and allotted. At the same time proper notations were caused to be made upon various records to insure against the delivery of said certificates and patents, and to evidence why they were held up.

For your information I am enclosing photographic copies of records showing the enrollment of Thomas Atkins, the certificates and patents issued in that name, and the proceedings to investigate his citizenship.

The Court in the case of United States vs. Minnie Atkins, et als., above referred to, wherein it is sought to cancel the enrollment of the name Thomas Atkins and the certificates and patents issued in that name, and wherein is involved the issue as to whether Thomas Atkins is a myth, has taken a bond to protect the successful claimant against the extraction and sale of oil from the lands, and, in my judgment, that feature of the case would not be affected by this proceeding. If the exercise of the jurisdiction of the Secretary is resumed for the purpose of completing the investigation begun in 1905, in view of the recent discovery of these records, I feel sure that the United States Court for the Eastern District of Oklahoma, would, upon being advised of the procedure before the Secretary and the consideration prompting him to fur-

ther act at this time, postpone final action in said cause until the jurisdiction of the Secretary has been exhausted.

I, therefore, recommend that you immediately present these facts to the Secretary of the Interior with the request that he cause a notice to be sent to all parties claiming an interest in this allotment to show cause why the enrollment of Thomas Atkins and the allotment certificates and patents, now in the possession of the Superintendent for the Five Civilized Tribes, should not be cancelled, or, if properly issued, to whom the said certificates and patents should be delivered.

In view of the fact that the parties in possession of this property are under a surety bond of $900,000 to answer to the successful party in said litigation for the proceeds from the sale of all oil and gas taken from same and damages caused to same, I urge that a hearing be granted at as early a date as, under the circumstances, is deemed practicable.

Very truly yours,

R. C. Allen,
Creek National Attorney.

RCA/H.

(Stamps:) Docket Room Solicitor's Office Oct 24 1916 Dept of the Interior Office of Indian Affairs Received Dec 15 1916 128088

21

C 45

Moty Tiger, Principal Chief; Maude D. Roberts, Private Secretary; G. W. Grayson, Interpreter. Probate Attorneys: Frank L. Montgomery, Muskogee; Wm. M. Harrison, Muskogee Joe H. Ford, Wagoner; Nat Ligon, Sapulpa; Alex. Johnston, Okmulgee; Lafayette Walker, Holdenville.

R. C. ALLEN
National Attorney for Creek Nation
Muskogee, Oklahoma

The Honorable,

October 23, 1916.

The Secretary of the Interior.

Sir:

In my letter of August 4, 1916, and the letter of Hon. Gabe E. Parker, Superintendent for the Five Civilized Tribes, of August 12, 1916, to the Commissioner of Indian Affairs, which formed the basis for the proceeding now pending before you in the matter of the application to strike the name of Thomas Atkins from the approved roll of Creek Indians and cancel the allotment certificate and patents issued in his name, attention was called to the recent finding of the original certificate

and allotment and homestead deeds issued to and in the name of Thomas Atkins and also the finding of certain other records in the office of the Superintendent for the Five Civilized Tribes, showing that the right of Thomas Atkins to be enrolled and allotted as a member of the Creek Tribe of Indians was questioned by the Commission in 1905, and that said Commission, at that time, received, from a source evidently regarded as reliable, information that Thomas Atkins died in 1879, and was, therefore, not entitled to receive an allotment of lands in the Creek Nation, and thereupon the said Commission directed the Principal Chief to return the allotment and homestead deeds, which had been forwarded to the Principal Chief of the Creek Nation for delivery to the allottee, and said Commission also directed proper entries to be made in the various records of said office which would evidence the fact that an investigation was being made into the right of Thomas Atkins to enrollment, and that the deeds were to be held up until such time as their delivery should be directed by the said Commission.

In both of the letters referred to, your attention was called to the fact, and I now reiterate same, that the original certificate and deeds and the other records above referred to were found in the office of the Superintendent for the Five Civilized Tribes by Mr. James L. Bruff, Special Agent of the Department of Justice, but a short time before your attention was called to the finding of same in my letter of August 4th.

I now desire to invite your attention to the facts upon which we base our contention that Thomas Atkins was not entitled to be enrolled as a citizen of the Creek Nation. In a recent report to the Commissioner I recited the facts with reference to the Creek County cases as follows:

> "On the 23rd day of July, 1913, there was prepared and filed in the Office of the Clerk of the District Court in and for Creek County, Oklahoma, a petition in a certain cause styled
>
> > Nancy Atkins, an incompetent, by Micco T. Harjo, her legal guardian and next friend, Complainant, vs. H. U. Bartlett, A. A. Hammer, Gypsy Oil Company, a corporation, William S. Murphy, Wilbur M. Morris, W. W. Walton and Ellis H. Hammet, Defendants;
>
> that it was alleged in said petition that Thomas Atkins was a citizen of the Creek Nation or tribe of Indians, duly enrolled upon the rolls of the Commission to the Five [], and as such citizen there was allotted to him the

lands described in complainant's bill; that the said Thomas Atkins died in Wagoner, Oklahoma, about the year 1903 or the year 1904, leaving surviving him, as his sole and only heir at law, Nancy Atkins, his mother; that subsequently amended petitions were filed alleging, in substance, insofar as the claim that Nancy Atkins is the mother of Thomas Atkins, the matters and things alleged in the original petition; that in answer to the second amended petition the defendant in said action, the Gypsy Oil Company, for its answer admitted that Thomas Atkins was a citizen of the Creek Nation or tribe of Indians and duly enrolled as such; admitted the execution and delivery of a certain deed purporting to have been executed by Minnie Atkins to H. U. Bartlett, and claimed rights in and to said allotment by virtue of conveyance made to it by said H. U. Bartlett; that further answering said petition the Gypsy Oil Company alleged that Minnie Atkins was the mother of Thomas Atkins and that Nancy Atkins owned no interest in said allotment; that the issues thus joined by the pleadings in said cause presented for determination by the Court the question of whether Nancy Atkins was the mother and heir of Thomas Atkins, or whether Minnie Atkins was the mother; that after hearing all of the evidence in said cause, upon a final trial thereof, and on or about the 26th day of February, 1914, the Court rendered judgment finding that Thomas Atkins was the son of Nancy Atkins, and that the deed purporting to have been executed by Minnie Atkins to H. U. Bartlett was a forgery; that thereafter motions for a new trial were regularly filed and final judgment of the Court overruling said motions for a new trial were entered on June 20, 1914, and thereafter said cause was appealed to the Supreme Court of Oklahoma where it is now pending, and which appeal is being prosecuted at this time, by Charles Page and Minnie Folk; that subsequent to the final determination of the issues involved in the action above referred to in the County Court of Creek County, Oklahoma, various suits were instituted between Nancy Atkins and those claiming under her, and Minnie Atkins and those claiming under her, in which interlocutory orders and decrees have been made and that the right of Charles Page and Minnie Atkins to the possession of said land has been involved in a turmoil of litigation at all times since Minnie Atkins first discovered that an allotment of land was arbitrarily made by the Commission to the Five Civilized Tribes to and in the name of Thomas Atkins."

Upon the question of Thomas Atkins being the son of Minnie Atkins, Minnie Atkins has testified upon four different occasions, and we have taken the depositions of more than a hundred witnesses.

From the investigations heretofore made and the depositions of witnesses taken, we have established the following facts:

First: That Minnie Atkins is not the mother of Thomas Atkins.

Second: That Charles Page, R. A. Josey and Frank Long knew that Minnie Atkins was not the mother of Thomas Atkins when they acquired the lease from her covering the allotment made to and in the name of Thomas Atkins.

Third: That Minnie Atkins told Bettie Mann and Frank Long, Agents of Charles Page and R. A. Josey, that she was not the mother of Thomas Atkins before said lease was executed.

Fourth: That subsequent to the time when Minnie Atkins told both Bettie Mann and Frank Long that she was not the mother of Thomas Atkins Charles Page agreed to take a lease from her and to pay her $10,000.00 as a bonus consideration therefor; that it was understood and agreed that said bonus was to be paid by two checks of $5,000.00 each, and that both checks were to be delivered to E. C. Hanford; that Mr. Hanford was to cash one of the checks, retain $3,000.00 thereof as advanced fee and expenses as Attorney for Minnie Atkins, and pay the remaining $2,000.00 to Captain McNabb, as advanced fee to him as Trustee for Minnie Atkins, and that the remaining $5,000.00 was to be paid to Minnie Atkins after she had testified in a proceeding hereinbefore referred to to being the mother of Thomas Atkins; that in direct compliance with said agreement Mr. Hanford cashed one check, paid Captain McNabb $2,000.00 and retained $3,000.00 and on July 21, 1914, Minnie Atkins went to Sapulpa, Oklahoma, and there gave testimony to the effect that she was the mother of Thomas Atkins; thereafter the check for $5,000.00, which was held by Mr. Hanford, was cashed and the proceeds placed on deposit to the credit of Minnie Atkins in a Tulsa bank.

Fifth: That Minnie Atkins testified at Sapulpa upon the occasion referred to that she gave birth to Thomas Atkins at Leavenworth, Kansas, just after leaving the employ of Major John Stafford, which was in July, 1886, and that he was born at the Sisters' Hospital; that thereupon and immed-

iately Hanford, with Minnie and her husband, Harry B. Folk, went to Leavenworth for the purpose of ascertaining if she could be corroborated; that they found there that there had never been a confinement case in the Sisters' Hospital until long after 1886; they also discovered, in some way, that Charles Peterkin, who was living with Minnie Atkins at that time, was still alive and living in Boston, Massachusetts. His address was obtained and Mr. Hanford went to see him. From the investigations made at Leavenworth and the conversation had with Mr. Peterkin, it was learned by them that Minnie Atkins did have a child just after leaving the employ of Major John Stafford, but that this child was born at the home of Mrs. Woods; that he lived only two weeks and was buried in Mt. Muncie cemetery, and that his name was not Thomas Atkins. Mr. Peterkin recently testified that he told Mr. Hanford all of the facts with relation to the birth of this child and that he was the first child born to Minnie Atkins. Concerning this matter your attention is called to the following letter written by Mr. Hanford to Charles Peterkin, dated November 23, 1914:

"E. C. Hanford,
Attorney-at-Law,
Colman Building.

Seattle, Washington, Nov. 23, 1914.

Dear Peterkin:

I want to thank you again for keeping me informed in regard to the other people writing you. I should have written you long ago but have been in court almost every day since my return to Seattle, or, if not in court, getting a case prepared for trial.

This man Rosser, who wrote you, is attorney for some people who laid claim to Minnie's land under the belief that she was dead, or, at least, that she would never be found. She set up a fictitious claim in behalf of Minnie's sister by asserting that she was the mother of Minnie's child.

Minnie was very much amused when she learned that I had gone to you for information regarding the birth of this child. She had previously told me that you had no knowledge of the matter and that she had scrupulously kept the matter from you and from everyone else that she was connected with after the child's birth. The child was born in the town of Leavenworth before she ever got acquainted with the Army post. She was quite a character about Leavenworth for a couple of years

and after she got away from there she staid away in so far as she allowed other people to find out.

It was at that time that she started her system of keeping her past a complete mystery to all who knew her. You know that, until this case came up, she had not for years mentioned your name or the name of Harrison to anyone. No (one) connected with her knew her origin or anything regarding her past. Even her present husband was entirely ignorant regarding her. That she had had children was totally unknown.

In the same way, while you were connected with her, she had a little son playing around in Leavenworth. He was about a year and a half old before Minnie went out to the post.

We have taken the deposition of about forty people in the town of Leavenworth who knew Minnie, knew the child and all about the time it was born. Minnie's friends kept the child in Leavenworth until he was about twelve years old. He was known by the name of Thomas Atkins, and everyone knew that he was part Indian and that Minnie was his mother.

It seems that it was Oliver who got Minnie to go out to the post. She went with him sometime before she met you. Dozens of people knew her there and know all about her and the child. People would recognize her on the street. She was better known in the town than she ever was out at the post.

She is back at home now, here in Seattle, living quietly with her husband and trying to recover from the excitement of her renewing old associations in Leavenworth and trying to again forget it all. She has grown to be of very nervous temperment and to go back over her experiences of thirty years ago and have people find out all about her past is very trying to her. We had her in the hospital for a week in Leavenworth suffering from nothing but nerves.

The details of Minnie's history after she went out to the Army post at Leavenworth do not concern these people and they have no business inquiring into that part of Minnie's history. She certainly ( ) entitled to keep private anything that is not involved in the case. But it is just like those people to try to nose into something that does not concern them. If you reply to their letter at all, I wish you would just tell them that Minnie did not inform you of the incidents of her life prior to the time

you met her and that you consider what took place afterwards a private matter which you do not intend to have them inquire into.

How about that cold weather up in Boston? You ought to be having some of it by now. Nothing but rain out here—not pleasant but better than snow and icy cold by a whole lot. Now don't write and tell me that you are having an Italian climate, etc.—I know what winter is in New England. Just the same, I would like to have a little taste of it—only enough to make my blood tingle a bit.

Don't know whether I shall ever get to Boston again or not, but if I should I'll look you up and we can have that lunch time together and a trip out to the beach or something. You turned me down on it last time and I really believe the days vacation would have done you good.

So long Peterkin—be good, and don't forget to write me if those people down there keep butting in.

Yours for the Army and Navy forever.

(Signed) E. C. Hanford.

Could not mail this at time of writing same as I misplaced your address. ECH."

Sixth: Learning that the testimony of Minnie Atkins at Sapulpa could be proven to be false by record testimony, Page and his Agent, Long, conceived the idea of employing Sadie James, who had theretofore worked on the case, in an effort to find Minnie Atkins for H. U. Bartlett and whose occupation was that of proprietress of a notorious dive in Tulsa, commonly known as the "Bucket of Blood," which name was given the place because of so many killings and cutting scrapes taking place there, Sadie herself having killed two men at the place. Page had already employed one of Sadie's working partners, Bettie Mann, who was at the time under a sentence of seven years for forgery. The employment of Sadie after conference with Page at his office and later that night in his private park was by contract entered into August 20, 1914, in the form of an escrow agreement, which is in words and figures as follows:

"No. 362

The within check signed by Gem Oil Company, in sum of $1000.00 payable to Sadie James, to be delivered by undersigned to Sadie James when witnesses furnished

by her have testified in land suit wherein Minnie Folk, nee Atkins, is *seeking possession of allotment in Creek Nation of Oklahoma* of her son, Thomas Atkins, and when Minnie Folk has gained possession of said land, and when oil and gas lease held (by) Chas. Page and R. A. Josey has been declared valid, and when Page and Josey are in legal possession of said land; and not until said lease has been declared valid.

In addition to payment of sum mentioned Chas. Page and R. A. Josey are to pay all expenses and fees of witnesses, to be produced by Sadie James, said expenses not to exceed sum of $500.00.

In event that Chas. Page and R. A. Josey are not declared legal owners of oil and gas lease covering land of Thomas Atkins, then the inclosed check is to be returned to them.

The First National Bank of Tulsa,
by E. W. Bradshaw.

The above stipulation is this 20th day of August, 1914, agreed to.

(Signed) Sadie James."

That after her employment Sadie James told Page that the mistake he had made was in having Minnie "go to Sapulpa and tell that lie about Thomas Atkins being born at the Sisters' Hospital; that he might have known that those Sisters would never swear to a lie for him"; that she, Sadie, intended to have him born at the home of Granny Letcher in Leavenworth; that Granny Letcher, during her life time, ran a notorious house of ill fame in Leavenworth where both whites and negroes congregated for immoral purposes; that Granny was dead and there would be no one by whom it could be proven that the child was not born there, except Walter Banks and Sam Nash, and that they, being negroes with the usual traits of character moulded out of such environments as they had been brought up under, could be bribed to say that Thomas Atkins was born at their home and that they knew him; that Page then asked if Sadie James knew a negro lawyer at Leavenworth by the name of Dennis Jones; she told him that Dennis was her side partner; that Page then said that he had been told by a friend of his living at Leavenworth that Dennis had been a constable, policeman, lawyer, and a politician and that he was an awfully shrewd man; that Sadie agreed that she could and would get him, Dennis, and also Rube Smith, who always worked with Dennis. This was done and contracts were entered into with both of them, Dennis to receive $10.00

per day salary, not exceeding $5.00 per day expenses, and $500.00 if it should be shown to the satisfaction of the trial court that Minnie Atkins was the mother of Thomas Atkins. Rube Smith, who is a negro constable, was to receive the same, except that his salary was to be only $5.00 per day. Thereupon, this trio entered upon their duties and in October, 1914, produced about twenty witnesses, who gave their depositions at Leavenworth, in which they all testified that Minnie Atkins gave birth to Thomas Atkins before she ever went to Ft. Leavenworth, that the child was born at the home of Granny Letcher; that Minnie Atkins stayed there until the child was about a year and a half old and then went away; that Thomas Atkins continued to live at Granny Letcher's until he was about twelve or fourteen years old and then disappeared.

Seventh: That Minnie Atkins thereupon, and on October 22, 1914, gave her deposition in Tulsa, Oklahoma, at the office of Rice & Lyons, attorneys for Charles Page, after she had spent sometime at the home of Mr. Page, in which she testified substantially as had all of said witnesses. She said, at that time, that she gave birth to Thomas Atkins at Granny Letcher's before she even went to Ft. Leavenworth; that after working for Hyde she went to Granny Letcher's and stayed there about a year and a half and then went to Ft. Leavenworth, where she worked for a year and a half for Grodevant, then one year for Stafford, then went to Ft. Leavenworth and that Thomas Atkins was the first and only child born to her at Leavenworth or Ft. Leavenworth.

Eighth: That after the taking of said deposition the Government brought this action to cancel the Atkins allotment upon the ground that the allottee never existed, and thereafter made an application for the appointment of a Receiver; that at said hearing we produced record evidence of the birth, baptismal and death of Robert L. Peterkin, after which Minnie Atkins testified again, at that time stating that Thomas Atkins was born to her between the time she worked for Hyde at Leavenworth and Grodevant at Ft. Leavenworth, and that she stayed around Granny Letcher's about a year and a half after she left Hyde's before she went to Ft. Leavenworth.

Ninth: Subsequent to the receivership hearing and before Giles A. Penick, Special Examiner, we took the testimony of Mrs. Foy, a daughter of Mr. Herbert Grodevant, who produced an expense account of her father, showing that Minnie Atkins began working for him at Ft. Leavenworth on October 14, 1884, which was only three months after she left

Carlisle, during which three months she worked at Hyde's; that with the exception of two weeks in June, 1885, she worked continuously for Grodevant from the time of her employment in October, 1884, until September, 1885, after which time she went to work for Major Stafford. Minnie then testified before the Examiner in Seattle that she gave birth to Thomas Atkins between the times she worked for Grodevant and Stafford. We then took the depositions of the Staffords, who testified that Minnie Atkins came to work for them on September 15 or October 15, 1885; that she was the picture of good health and that she was discharged in July of next year, 1886, because she was in a pregnant condition. We then proved by Dr. Carpenter, who attended Minnie Atkins when Robert L. Peterkin was born, by a daughter of Mrs. Ward's and by Charles Peterkin, the alleged father of Robert L. Peterkin, that this child, Robert L., was born July 31, 1886, and was a fully developed child.

Tenth: Having shown conclusively that Thomas Atkins could not have been born between the time Minnie Atkins worked for Grodevant and Stafford, the defendants then put on a number of witnesses at Leavenworth to prove that Thomas Atkins was born on May 31, or June 1, 1885, at Granny Letcher's, while Minnie was working for Grodevant.

Eleventh: Many witnesses testified at Leavenworth that Minnie Atkins was not in a condition of pregnancy at any time during the time she worked for Mr. Grodevant and also that Lillie White was living in the house where Minnie claims this child was born until late in the Fall of 1885 and that Granny Letcher did not live there until after the house was vacated by Lillie White.

More than a year ago Mr. Frank L. Montgomery, United States Probate Attorney, went to Seattle to see Minnie Atkins. In the presence of Captain McNabb, her trustee, and E. C. Hanford, Minnie Atkins, at that time, told Mr. Montgomery that she was not the mother of Thomas Atkins; that the Thomas Atkins, whose name appears upon the rolls, was, in fact, her father, whose death occurred, as we are informed, about 1878. She stated that she caused the name of Thomas Atkins to be enrolled, in order that she might receive his per capita payment that would be due her as his mother when the Creek payment was made in 1895 and that Thomas Atkins, being the name of her father, she gave the name to the Commission as her child. At that time she reduced to writing and signed a statement, embodying the substance of her conversation with Mr. Montgomery and by agreement with Mr. Montgomery this signed statement was turned over to

Captain McNabb, to be delivered to Mr. Montgomery when he could give assurance that Minnie would not be prosecuted for having falsely testified in the Courts of Oklahoma, concerning the birth of this child. On the following day she repudiated this conversation and Captain McNabb declined to turn same over to Mr. Montgomery. Before, however, the repudiation of this conversation, Mr. Montgomery, at the request of Minnie Atkins, went with him to a bank in Seattle, where she drew a draft on a bank in Tulsa, Oklahoma, covering the amount of her time deposit, forfeiting the interest, in order that she might withdraw same from the control and reach of Charles Page.

I feel confident that we will be able to show, by other witnesses, that Minnie Atkins has repeatedly stated that this whole case is a frame-up and that she will have to continue to give false testimony, in order to avoid prosecution for the many false statements she has made under oath concerning the birth of Thomas Atkins.

I have detailed the facts concerning the birth of Thomas Atkins as a child of Minnie Atkins. I now desire to call your attention briefly to the facts with reference to the birth of Thomas Atkins as a child of Nancy Atkins.

In the proceedings hereinbefore referred to in the district court for Creek county, Oklahoma, Nancy Atkins gave her deposition before C. B. Lockwood, a Notary Public at Sapulpa, Oklahoma, on February 9, 1914, wherein she testified that she was not the mother of Thomas Atkins; that the only child born to her was a girl and that she was born dead; that later and on or about February 27, 1914, at Sapulpa, Oklahoma, she testified as a witness in her own behalf in the district court aforesaid in substance and to the effect that she gave birth to Thomas Atkins at Wagoner, Oklahoma, in the Creek Nation, and that he died subsequent to the time of allotment. I am confident that we will be able to establish, conclusively, that the only child Nancy Atkins ever gave birth to was a girl and that she was born dead, or died within a few hours after her birth. I deem it unnecessary to comment upon the claims of Thomas Atkins, Henry Carter, alias Thomas Atkins, or the various other living persons now claiming to be the original Thomas Atkins, as each of these parties claims to be the son of Minnie Atkins and the identical boy whom she claims was born at the home of Granny Letcher in Leavenworth, Kansas, as the facts with reference to the claim of Minnie Atkins apply with equal force to the claims of these people.

I have set out in this letter, which I desire treated as an amended and supplemental application to cancel the enrollment of Thomas Atkins and the allotment certificate and deeds made out in his name, the facts upon which we rely at considerable length, for the reason that the proceeding initiated before and by the Commission to the Five Civilized Tribes in 1905 involves the issue of whether, or not, Thomas Atkins was entitled to be enrolled and allotted as a citizen of the Creek Nation. I am confident of being able to establish to your satisfaction the truth of the statements contained in this letter and I stand ready to make proof thereof.

Concerning the question of the possession of this allotment, I desire to say that I will be able to show that Mr. Page obtained his possession by stealth; that it has been a scrambling one and that his right to possession thereof has been in constant litigation since x x x he acquired same. In fact, the title was in litigation in the Creek county district court sometime before Page even obtained his lease, it being at that time claimed by persons other than Minnie Atkins, and Page obtained his possession only by consent of the court in said litigation, after having stealthily taken possession of one corner of the land away from the Gypsy Oil Company. He obtained his lease from Minnie Atkins in June, 1914, after, as heretofore stated, he had been advised that Minnie Atkins was not the mother of Thomas Atkins.

We will also be able to show that nobody occupied this land prior to 1913, although it was allotted in 1902 and that Pages' occupancy thereof antedates the institution of the Government suit here just six months and it is a fact that up to the time that Page learned the Government would institute this suit and even up to the time of the institution thereof, Mr. Page had spent a very small amount of money.

For your further information, I am enclosing herewith and desire to have treated as a part hereof the motion and supplemental bill of complaint recently filed in the United States District Court for the Eastern District of Oklahoma in the case of United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.

Very respectfully submitted,

R. C. Allen,
National Attorney for Creek Nation.

RCA—FS.
Enclosure.

Government's Exhibit A-25.

C.T.D.

DF

DEPARTMENT OF THE INTERIOR

Office of Indian Affairs

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs do hereby certify that the paper hereto attached is a true copy of the original as the same appears in the files in this Office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

C. F. HAUKE,

Acting Assistant Commissioner.

TP 4 C 33

(Stamp:) Office of Indian Affairs Received Aug 18 1916 88343

Gabe E. Parker, Superintendent.

Make all remittances payable to W. M. Baker, Cashier.

Local Offices: Vinita, Jay, Nowata, Sapulpa, Okmulgee, Muskogee, Tahlequah, Sallisaw, Poteau, Idabel, Hugo, McAlester, Holdenville, Atoka, Madill, Ardmore, Chickasha, Pauls Valley.

DEPARTMENT OF THE INTERIOR.

United States Indian Service.

Five Civilized Tribes.

Muskogee, Oklahoma.

Land Office D-5193-16 WHA-JMB 8-12-16 Incl. In re enrollment and allotment of Thomas Atkins. Land—Five Tribes 83856-1916 J E D

The Honorable, August 12, 1916.

The Commissioner of Indian Affairs.

Dear Mr. Commissioner:

I am in receipt of your Office letter of August 8, 1916, wherein you refer to the suit pending in the United States Court for the Eastern District of Oklahoma entitled United States vs. Minnie Atkins, et al., in regard to certain land in the Creek Nation allotted in the name of Thomas Atkins, said suit being brought to clear the title of the Creek Nation to said land.

Reference is made to a communication from the Creek Tribal Attorney of August 4, 1916, inviting attention to the fact it has been discovered that the certificate and deed covering said allotment were found in the files of this office, and have not been delivered, and that from the records of this office it appeared that in 1905 the Commission had obtained information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation; that the allotment deeds were withheld pending an inquiry which was then begun to determine the right of Thomas Atkins to enrollment and allotment, and that notation had been made upon various records to insure against the delivery of the allotment certificate and deeds, and indicating the reason why they were withheld.

The above mentioned communication of August 4, 1916, of the Creek Tribal Attorney, and certain inclosures accompanying same were transmitted with your said Office letter, and you request me to report in the matter, accompanying same with my recommendation. You also request me to furnish certified copies of all papers and records in this office relating to the enrollment and allotment of Thomas Atkins, and including the papers and records which relate to any steps that were taken or contemplated looking to the cancellation of the enrollment and allotment, or to the investigation of the right of said Thomas Atkins to said enrollment or allotment or allotment. Also to transmit the original allotment certificate and the original homestead and allotment deeds issued in the name of Thomas Atkins, which are said to have been found in the files of this office undelivered.

In reply you are advised the records of this office show that prior to the Act of April 26, 1906, patents covering the land allotted to said Thomas Atkins were issued and recorded, and transmitted by the Commission to the Five Civilized Tribes, on July 18, 1903, to the Principal Chief of the Creek Nation for delivery, but in 1905 were recalled from said Principal Chief by the Commission for the reason that a question had arisen as to his right to enrollment and allotment at that time. The deeds were thereupon returned by the Principal Chief to said Commission, and were recently found among the files of this office in the jacket of Nancy Atkins, where it is probable that same were inadvertently placed at the time they were returned from the Chief's office.

It appears that the matter of the enrollment of said Thomas Atkins was held up at the time, for the reason that the Commission or the Principal Chief of the Creek Nation had received information that said Thomas Atkins died prior

to April 1, 1899. The records show that an effort was made to locate said Thomas Atkins and his alleged mother, Minnie Atkins, but it is evident they could not be found. It does not appear that any testimony was taken in the matter by the Commission, and it is probable that none was taken for the reason that no one could be found at that time who could furnish any material information concerning the whereabouts or death of Thomas Atkins, or the whereabouts of Minnie Atkins.

The allotment certificate covering the allotment of said Thomas Atkins was issued on June 30, 1902, which certificate was mailed to Thomas Atkins at Muskogee, Indian Territory, on May 8, 1903, and thereafter returned by the Postmaster, unclaimed, and has since been held at this office among the regular files of returned Creek allotment certificates. All of the records of this office indicate that the delivery of the patents and allotment certificate covering the allotment of Thomas Atkins was withheld for the reason it had been reported to the office that he died prior to April 1, 1899, and was not entitled to enrollment.

The record book of the delivery of patents in the office of the Principal Chief of the Creek Nation, which record book is kept in the office of the Creek Tribal Attorney, shows thereon, opposite the name of Thomas Atkins, the following notations:

> "Deceased." "Hold for investigation. Said to have died in 1878 (or 1898). Is relative of Chaney Trent. Reported by Judge J. R. Thomas. Retd. to D. Com. (Messenger). Right to enrollment pending."

The Judge Thomas referred to in this notation died several years ago.

There are inclosed, herewith, certified copies of all the records pertaining to the enrollment and allotment of said Thomas Atkins that can be located among the files of this office, after a diligent search having been made therefor, with the exception of the certificate of allotment. The original certificate of allotment and original homestead and allotment patents were delivered to Mr. James L. Bruff, Special Agent, Bureau of Investigation, of the Department of Justice, who, in turn, delivered same to Mr. R. C. Allen, Creek Tribal Attorney, who has possession of same, as per his telegram of August 9, 1916, from Washington, D. C., to the Assistant National Attorney of the Creek Nation. The certified copies inclosed herewith are as follows:

Page 98 of the 1890 Creek Census Roll.
Page 167 of the 1895 Creek Census Roll.
One page of the 1895 Creek Pay Roll, Euchee Town, Muskogee Nation.
Creek Census Card No. 2707.
Pages 320, 324 and 339, Letter press copy book No. 1, (Transmitting Creek Poll.)
Copy of Approved roll as to No. 7913.
Certificate as to appearance on Census Card Field No. 2774.
Memoranda Plat designating land allotted to No. 7913.
Allotments and homestead designations to Creek No. 7913. Arbitrary allotment.
Stub Creek Allottee's Selection certificate No. 16983.
Page No. 193 of Record book, mailing allotment certificates.
Allotment Deed as recorded in Book 12, Page 310, Muskogee (Creek) Deed Record.
Homestead Deed as recorded in Book "L" Page 310, Muskogee (Creek) Deed Record.
Letter of May 9th, 1905, to Will Robison.
Page 371, Letter press Copy Book No. 540.
Letter of May 9th, 1905, to E. B. Miller, Chief Creek Land Office.
Letter of May 11th, 1905, to H. G. Hains, Chief Clerk Creek Enrollment Division.
One page of M. Index Book to Special M. Journal.
Page 113 of Special M. Journal.
One page of Index to Special Memoranda Book.
Page 124 of Special Memoranda Book.
Letter dated Jan. 14, 1913, signed Thomas Atkins.
Letter dated Jan. 16, 1913, addressed to Thomas Atkins, signed by Moty Tiger.

There is also inclosed, herewith, a photographic copy of Page 16 of the Index and Record of Delivery of Creek Deeds for lands allotted in Muskogee (Creek) Nation, certified to by Moty Tiger, Principal Chief of the Creek Nation.

The Special Memoranda Journal and Index thereto were books that were kept in the Office of the Commissioner to the Five Civilized Tribes for the purpose of keeping track of patents and other matters in cases where it appeared that there was some question as to enrollment, or where patents and allotments were held up for various reasons. To make it plain, it is what was termed the "Hold Up Book."

Your attention is invited to a report made to the Indian Office on November 11, 1914, of Dana H. Kelsey, Supervisor in charge, transmitting the application of Quentin Garrett, New Born Creek Freedman, to select in allotment a portion of the land allotted to Thomas Atkins. Also my report of January 25, 1915, to the Commissioner of Indian Affairs transmitting applications of Millard Sanders, Creek by blood, Roll No. 2406, to select certain lands therein described allotted to Emma Coker, Creek by blood, Roll No. 8514, and said Thomas Atkins, copies of which reports are inclosed herewith for your information.

Upon the recommendation of the Secretary of the Interior, a suit was instituted in the United States District Court for the Eastern District of Oklahoma, having for its purpose the cancellation of the enrollment and allotment of said Thomas Atkins, which suit is now pending.

On October 17, 1914, Mr. R. C. Allen, National Attorney for the Creek Nation, submitted a report to the Department in this case, a copy of which was transmitted to the Attorney General, on December 14, 1914, with the recommendation that the papers in the case be forwarded to the United States District Attorney for the Eastern District of Oklahoma, and that he be instructed to confer with Special Supervisor Kelsey of Muskogee, Oklahoma, and R. C. Allen, Creek Tribal Attorney, in regard to the matter referred to therein, and if the evidence obtained indicated that said Thomas Atkins died prior to April 1, 1899, that a suit be instituted on behalf of the Creek Nation to recover for said Nation the land allotted to said Thomas Atkins; that thereafter a suit was brought in said court for such purpose, and is now pending, as above stated.

Inasmuch as it appears that the allotment certificate and patents were not actually delivered, and that the patents were prepared and recorded and transmitted to the Principal Chief of the Creek Nation for delivery prior to the Act of Congress approved April 26, 1906, and that it has never been definitely determined, after the Commission to the Five Civilized Tribes received information that said Thomas Atkins died prior to April 1, 1899, which caused the withholding of the delivery of the certificate and patents, and in view of the holding of the Department of July 3, 1916, (Land Five Tribes, 37953-15 103834-15 J E D), directing the cancellation of allotment certificate and deeds in the case of Narchechar, Creek by blood, Roll No. 9897, which seems to be somewhat similar to this case, it would seem that the Department still has jurisdiction

in the matter, and I therefore suggest it might be deemed advisable for the Secretary of the Interior to cause the inquiry as to the right of said Thomas Atkins to enrollment and allotment, which was originally instituted in 1905, to be resumed, and to proceed to hear and determine the question, providing, in view of the suit now pending in the United States District Court, which was brought for the purpose of canceling the patents and restoring the land to the Creek Nation, such action can now be taken consistently, and it meets with the approval of the judge of said court.

The records of this office show that the land involved is producing large quantities of oil. The records of the United States Court show that Judge Campbell made an order appointing a Receiver, but that this order was reversed by the Circuit Court of Appeals for the Eighth Circuit, upon the condition that Charles Page, one of the defendants, give bond in the sum of $900,000.00 in lieu of a receivership, with which condition Mr. Page has complied. In view of this fact, I am of the opinion, should it be determined to resume inquiry into this case, as suggested, it would be inadvisable for the Government to dismiss the pending suit.

In the event the Secretary of the Interior directs that the inquiry of the right of Thomas Atkins to enrollment and allotment be resumed, all parties interested should be notified to show cause why the enrollment and allotment of said Thomas Atkins should not be cancelled, and I am inclined to believe it would be proper, and a courtesy due to the Court, to advise Judge Campbell of that action, and in that event he would probably postpone the trial of the case, and in the meantime hold the property in statu quo, in order that the rights of all concerned may be protected until the Secretary shall have reached his determination in the premises.

The records of this office do not show that the patents in question were ever delivered to Thomas Atkins, or any of his representatives, after same had been returned to this office by the Principal Chief of the Creek Nation, and it was presumed that they were on file at this office, although it appears from report of Mr. R. C. Allen, Creek Tribal Attorney, of October 17, 1914, to the Commissioner of Indian Affairs, that they had recently been delivered. It appears, however, that same were not located until they were found by Mr. Bruff in the files of this office relating to the case of Nancy Atkins, where they evidently had been inadvertently filed. The records in the Principal Chief's office clearly show that these patents were returned to the Commission to the Five Civilized Tribes, for the reason that it had been reported that

Thomas Atkins died prior to April 1, 1899, and was not entitled to enrollment.

The papers inclosed with your letter are herewith returned.

Sincerely yours,

Gabe E. Parker,
Superintendent for the Five Civilized Tribes.

Governmen's Exhibit A-26.
CTD

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs

Washington, April 24, 1917.

I, C. F. Hauke, Acting Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear of record in this Office.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

C. F. HAUKE,
(Seal) Acting Assistant Commissioner.

5-1 F.C.T. Creek Suit to Clear Title. R J EBM

Mr. Charles Page, Aug 18 1916
Tulsa, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot 4 of Section 4, Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Signed) Bo Sweeney,
Assistant Secretary.

(Signed when rec'd in M. & F.) C 1

Miss Nancy Atkins, August 18, 1916.
Nowata, Oklahoma.

Madam:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.
C 2

Mr. Harry B. Folk, August 18, 1916.
Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Sir and Madam:

You will take notice that on the 25th day of September,

1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly yours,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 3

Mr. James A. Ferguson, August 18, 1916.
Fayetteville, Arkansas.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom, and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine

whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,

Assistant Secretary.

C 4

Mrs. Minnie Folk, August 18, 1916.

Sand Springs, Oklahoma.

Madam:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,

Assistant Secretary.

C 5

Mr. E. C. Hanford, August 18, 1916.

% Stuart & Cruce,

Oklahoma City, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the

Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 6

Mr. Henry Carter,
% J. Coody Johnson,
Wewoka, Oklahoma.

August 18, 1916.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 7

Mr. H. A. Ridgeway, August 18, 1916.
Guardian of Nancy Atkins,
Nowata, Oklahoma.

Sir:

You will take notice that on the 25th day of September, 1916, at 10:00 o'clock A. M., at my office in the City of Washington, D. C., hearings will be resumed to determine whether or not the name of Thomas Atkins, appearing opposite Roll No. 7913 on the approved Roll of Citizens by blood of the Creek Nation, should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, covering the following described lands, to-wit:

> Southwest Quarter of the Northwest Quarter of Section Four (4) and Southwest Quarter of the Northeast Quarter and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East of the Indian Base and Meridian, containing 162.01 acres,

which deeds have never been delivered, and are now in the possession of the Department of the Interior, and to determine whether or not said certificate and deeds should be cancelled and held for naught.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

C 8

5-1 F. C. T. Creek Suits to C. T.

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

ORDER.

In the matter of enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation.

It is hereby ordered that the hearing set for September 25, 1916, at 10 o'clock a. m., in connection with the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation be and the same is hereby continued to November 15, 1916, at 10 o'clock a. m.

Bo Sweeney,
Assistant Secretary.

Dated at Washington, D. C., this twenty-fifth day of September, nineteen sixteen.

C 9

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

Mr. E. C. Hanford,
% Stuart & Cruce,
Oklahoma City, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 10

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

Mrs. Minnie Folk,
Sand Springs, Oklahoma.

Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 11

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

Mr. Henry Carter,
% Coody Johnson,
Wewoka, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 12

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. James A. Ferguson,
Fayetteville, Arkansas.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 13

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. Henry B. Folk,
Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Sir and Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 14

DEPARTMENT OF THE INTERIOR
Washington
Sep 25 1916

Mr. H. A. Ridgeway,
Guardian of Nancy Atkins,
Nowata, Oklahoma.

Sir:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,
(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 15

DEPARTMENT OF THE INTERIOR
Washington

Sep 25 1916

Miss Nancy Atkins,
Nowata, Oklahoma.

Madam:

The hearing set for September 25, 1916, at 10 o'clock a. m., before this Department, in the matter of the enrollment and allotment of Thomas Atkins as a citizen of the Creek Nation has been continued to November 15, 1916, at 10 o'clock a. m.

Very truly,

(Sgd.) Bo Sweeney,
Assistant Secretary.

V.W. C 16

DEPARTMENT OF THE INTERIOR
Washington

In the matter of the enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

Ordered, This 15th day of November, 1916, that the hearing set in the above-entitled cause at 10 o'clock a. m. of the day last mentioned be, and the same is hereby, continued to December 15, 1916, at 10 o'clock a. m.

Bo Sweeney,
Assistant Secretary.

Copies of the above order were mailed to all interested parties Nov. 15, 1916. C 17

5-1 F. C. T. Creek Enrollment Atkins, Thomas.

IN THE DEPARTMENT OF THE INTERIOR.

In re Enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

It having been represented that the notice of hearing heretofore issued in the above-entitled cause includes, among other things, a rule to show cause why the allotment certificates and deeds issued in the name of said Thomas Atkins should not be canceled, and it being further represented that on November 20, 1916, the Supreme Court of the District of Columbia, in a cause entitled Charles Page et al. v. The Secretary of the Interior et al., Eq. No. 34,621, entered a decree

enjoining the cancellation of said allotment certificates and deeds so issued, as aforesaid, in the name of Thomas Atkins, from which decree an appeal was duly taken and is now about to transfer the issues of law to the Court of Appeals of the District of Columbia there to be considered; and whereas the matter of the enrollment of said Thomas Atkins as a citizen of the Creek Nation is about to come on for hearing in the Department, on, to-wit, the 15th day of December, 1916, and at a time prior to any decision or action that may be had or taken on said appeal by said Court of Appeals: it is now, therefore, this 6th day of December, 1916,

Ordered, That the notice of hearing heretofore issued be, and the same is hereby, modified to exclude any consideration of, or action in respect to, the cancellation by the Department of the said allotment certificates or deeds issued in the name of Thomas Atkins, until and unless the injunction aforesaid shall have been dissolved; but that the said hearing shall be had and proceed on the date already set, to-wit, December 15, 1916, in respect to all other matters and issues set forth in said notice, unless, on said December 15, 1916, it be otherwise ordered; and it is further

Ordered, That notice hereof shall be served on all parties of record in said cause by duly mailing to their last known address a copy of this order.

Bo Sweeney,
Assistant Secretary.

Copies mailed to all parties Dec 6 1916 C 18

IN THE DEPARTMENT OF THE INTERIOR

In re Enrollment of Thomas Atkins as a citizen of the Creek Nation.

ORDER.

Now on this 15th day of December, 1916, the above entitled cause coming on regularly to be heard before the Secretary of the Interior upon the application of the National Attorney for the Creek Nation to strike from the approved roll of Creek Indians the name of Thomas Atkins, uppearing upon said roll opposite No. 7913 for the reasons and upon the grounds set forth in the application of the said National Attorney for the Creek Nation, and other reports and letters filed herein; and it appearing to the undersigned that due, proper, and legal notice of this hearing has been given to all parties interested herein; and it further appearing that some of the parties interested in said matter desire to introduce

testimony, oral and documentary, and that the Secretary of the Interior by reason of other duties devolving upon him, cannot devote the time necessary to hear said cause;

Now, therefore, it is ordered that this cause be, and the same is, referred to the Commissioner of Indian Affairs with directions to him, or such person as he may designate to immediately proceed to hear said cause and report his findings and conclusions to the Secretary of the Interior, and that he transmit with his report a full, true, and correct transcript of the testimony produced before him, together with the pleadings in said cause.

It is further ordered that the Commissioner of Indian Affairs, or such person as he may designate, may, in his discretion, hear oral testimony and also receive and consider the affidavits and depositions of witnesses made or given concerning the subject-matter involved herein.

Alexander T. Vogelsang,
First Assistant Secretary.

C 19

27686

5—1100

Address only the
Commissioner of Indian Affairs

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

In re Creek Enrollment case of Thomas Atkins.

Feb 19 1917

Mr. John E. Dawson,

Indian Office, Washington, D. C.

My dear Mr. Dawson:

Pursuant to an order of the First Assistant Secretary of the Interior made and entered on the 15th day of December, 1916, in the matter of the enrollment of Thomas Atkins as a citizen of the Creek Nation, a copy of which order is attached hereto, you are hereby designated, authorized and directed to proceed under the authorization granted you on February 17, 1917, to Muskogee, Oklahoma, and hear further testimony in said cause, beginning on the 12th day of March, 1917, and to proceed to such other points in Oklahoma, Missouri and Kansas as may be necessary in the further taking of testimony in said cause and to do and perform all things required

to be performed by the Commissioner of Indian Affairs, under the above mentioned order in said enrollment case.

Sincerely yours,

Sells,
Commissioner.

C 20

JED Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. Charles Page,
Tulsa, Oklahoma.

Dear Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

REP C 2

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Miss Nancy Atkins,
Nowata, Oklahoma.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said

March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

REP C 22

JED Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. E. C. Hanford, Attorney at Law,
Care Messrs. Stuart & Cruce,
Oklahoma City, Oklahoma.

Dear Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

REP C 23

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

Mr. Harry B. Folk,
Fort Lawton,
Seattle, Washington.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 24

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mrs. Minnie Folk,
% Mr. Charles Page,
Tulsa, Okla.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 25

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mrs. Minnie Folk,
Fort Lawton,
Seattle, Washington.

Madam:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of

the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 26

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. James A. Ferguson,

Fayetteville, Arkansas.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 27

JED Copy 2

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. H. A. Ridgeway,

Guardian of Nancy Atkins,

Nowata, Okla.

Sir:

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on

the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 28

J E D Copy

In re Creek enrollment case of Thomas Atkins.

February 19, 1917.

Mr. Henry Carter,

% Mr. J. Coody Johnson,

Wewoka, Oklahoma.

You are hereby notified that pursuant to the direction of the Commissioner of Indian Affairs, the undersigned will, on the 12th day of March, 1917, resume the taking of testimony in the matter of the application to cancel the enrollment of the name of Thomas Atkins appearing opposite No. 7913 on the final approved roll of the citizens by blood of the Creek Nation.

Said hearing will begin at the office of the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, on said March 12, 1917, at 9 o'clock A. M., at the conclusion of which hearing announcement will be made of the time and place of further hearings.

Respectfully,

John E. Dawson.

C 29

Government's Exhibit A-27.

C.T.D.

1—480.

United States of America.

DEPARTMENT OF THE INTERIOR

Washington, D. C., April 28, 1917.

Pursuant to Section 882 of the Revised Statutes, I hereby

certify that the annexed papers are true and exact copies of the originals as they appear of the records and files of this Department.

In Testimony Whereof, I have hereunto subscribed my name, and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

(Seal) Bo SWEENEY,

6—1991 Assistant Secretary of the Interior.

Address only to the Commissioner of Indian Affairs
Refer in reply to the following:

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
83856-16 Washington

Apr 20 1917

My dear Mr. Secretary:

Pursuant to the order of December 15, 1916 entered by the First Assistant Secretary of the Interior in the Creek enrollment case of Thomas Atkins, a hearing was held upon the application of the National Attorney for the Creek Nation to strike from the approved roll of citizens by blood of the Creek Nation, the name of Thomas Atkins appearing on said roll opposite No. 7913. A transcript of the proceedings and of the testimony obtained, and copies of papers and other evidence furnished are transmitted herewith. The correspondence and papers on file in this office relating to the enrollment case of Thomas Atkins are also inclosed.

Upon consideration of the evidence introduced at the hearing, the conclusion has been reached that no such person as the purported Thomas Atkins, Roll No. 7913, on the final roll of citizens by blood of the Creek Nation, ever existed, and that he was, and is, a mythical person, and therefore that notation or entry should be made on said final roll to that effect.

In compliance with the above mentioned order of December 15, 1916 of the First Assistant Secretary of the Interior, there is transmitted herewith a decision in the case setting forth my findings of fact and the conclusions reached.

It is recommended that said decision of even date and transmitted herewith, be affirmed.

Sincerely yours,

Cato Sells,
Commissioner.

Hon. Franklin K. Lane,
Secretary of the Interior.

Address only to the Commissioner of Indian Affairs
Refer in reply to the following:

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
83856-16 Washington

In the matter of the enrollment of Thomas Atkins on the final roll of the Creek Nation and as to striking his name therefrom.

Apr 20 1917

FINDINGS AND DECISION.

Opposite No. 7913 on the final rolls of citizens by blood of the Creek Nation appears the name of Thomas Atkins, and the further information to the effect that the enrollee was ten years of age, a male, and of ½ blood. His census card was stated thereon to be No. 2707. It appears that said name was listed on May 23, 1901, by the Commission to the Five Civilized Tribes for enrollment, and on the above mentioned census card the enrollee was described as ten years of age, a male, and of ½ blood, and Minnie Atkins, whose name appears on the 1895 Creek tribal roll of Euchee Town, is set forth on the above mentioned census card as the mother of Thomas Atkins. The name of Thomas Atkins appears at No. 213 on the above mentioned Creek tribal roll of 1895.

The enrollment of the name of Thomas Atkins at No. 7913 on the final roll of citizens by blood of the Creek Nation, was approved by the Acting Secretary of the Interior on March 28, 1902. Subsequent thereto the Commission to the Five Civilized Tribes made an arbitrary allotment of certain described land in the Creek Nation in the name of Thomas Atkins and an allotment certificate was issued therefor on June 30, 1902. Homestead and allotment deeds were executed on April 14, 1903, by the Principal Chief of the Creek Nation, and said deeds were approved on May 8, 1903, by the Acting Secretary of the Interior, and were recorded on May 16, 1903, in the office of the Commission to the Five Civilized Tribes. Said allotment certificate and deeds were, however, never delivered.

Information having been received that the enrollment and allotment in this case should not have been made, a suit was instituted on January 18, 1915, in the United States Court for the Eastern District of Oklahoma by the United States against Minnie Folk, nee Atkins, and others for the cancellation of the enrollment and allotment above mentioned, and to clear the title of the Creek Nation to the land involved, and said suit is now pending in the above named court. Mr. R. C.

Allen, the Creek National Attorney, in a communication of August 4, 1916, to the Commissioner of Indian Affairs, invited attention to the fact that it had then been lately discovered that the allotment certificate and deeds had not been delivered, they having been found in the files of the office of the Superintendent for the Five Civilized Tribes, and that 2 the records of said office show that in 1905 the Commission to the Five Civilized Tribes had obtained some information to the effect that Thomas Atkins was not entitled to be enrolled or allotted as a citizen of the Creek Nation, and that the allotment deeds in the case were withdrawn from the Principal Chief of the Creek Nation and their delivery withheld pending an inquiry which had then begun to determine the right of Thomas Atkins to enrollment and allotment.

Upon the request of the Creek National Attorney, a hearing before the Department was determined upon and the Assistant Secretary of the Interior on August 18, 1916, notified Minnie Folk, Charles Page and all other parties in interest that on September 25, 1916, at 10 o'clock A. M. in his office the hearings would be resumed to determine whether or not the name of Thomas Atkins appearing opposite No. 7913 on the approved roll of citizens by blood of the Creek Nation should be stricken therefrom and delivery refused of the certificate of allotment and the allotment and homestead deeds, and to determine whether or not said certificate and deeds should be cancelled and held for naught. Thereupon a suit was instituted in the Supreme Court of the District of Columbia by Charles Page et al. against the Secretary of the Interior, to enjoin the proceeding in this matter, and to enjoin the cancellation of the allotment certificate and homestead and allotment deeds. Pending the decision of the court, the hearing before the Assistant Secretary of the Interior was postponed to a later date. The Supreme Court of the District of Columbia on November 20, 1916, entered a decree enjoining the cancellation of the allotment certificate and deeds issued in the name of Thomas Atkins. An appeal has been taken in said case of Charles Page et al. v. Secretary of the Interior, and it is now pending in the Court of Appeals of the District of Columbia.

In reference to the hearing which was set to be held before the Assistant Secretary of the Interior, the date for which had been postponed, the Assistant Secretary of the Interior on December 6, 1916, ordered in view of the above mentioned injunction, that the notice of the hearing theretofore issued be modified to exclude any consideration of or action in respect to the cancellation by the Department of the In-

terior of said allotment certificate and deeds issued in the name of Thomas Atkins until and unless the above mentioned injunction should have been dissolved, but that said hearing should be had and proceed on December 15, 1916, in respect to all other matters and issues set forth in the notice unless on said December 15, 1916, it should be otherwise ordered. Due, proper and legal notice was given to Minnie Folk, Charles Page and all others interested in said cause, of the determination of the Assistant Secretary of the Interior and of the date to which said hearing was postponed.

On December 15, 1916, the cause came on regularly to be heard before the First Assistant Secretary of the Interior at the time and place designated in said order and notice and on said date by order of the First Assistant Secretary of the Interior the cause was referred to the Commissioner of Indian Affairs, to be immediately heard before said Commissioner or such person as he might designate. Thereupon on said December 15, 1916, said hearing was begun at the office of the Commissioner of Indian Affairs and testimony was taken relating to the right of the name of Thomas Atkins to be and remain upon the above mentioned final roll of citizens by blood of the Creek Nation, and thereupon a continuance was obtained by the respondents for the taking of further proof, and the hearing after due notice to all parties in interest was resumed and concluded at Muskogee, Oklahoma, on March 12, 1917.

Now, therefore, after due, full and careful consideration of all the evidence which was introduced in this case, the following facts are found:

1. It is found that Minnie Atkins when a mere girl attended the Tullehassee Mission in the then Indian Territory, and that she left there and entered Carlisle Indian School, Pennsylvania, on January 22, 1881.

2. That Minnie Atkins left Carlisle Indian School to go to the home of Mr. George H. Hyde in Leavenworth, Kansas, on July 8, 1884, and arrived at said home on July 11, 1884, and that she worked for said Mr. Hyde for a period of about three months.

3. That Minnie Atkins did not give birth to any child while in the employ of Mr. Hyde.

4. That Minnie Atkins began working for Mr. Herbert Grodevant at Fort Leavenworth, Kansas, on October 15, 1884, and that she worked at the home of said Mr. Grodevant until September 15, 1885.

5. That said Minnie Atkins did not give birth to any child while in the employ of Mr. Grodevant. 4

6. That said Minnie Atkins began working for Lieut. Stafford at Fort Leavenworth, Kansas, either on September 15 or October 15, 1885, and that she worked at the home of Mr. Stafford until June 1886 when she was discharged because of her pregnant condition.

7. That on July 31, 1886, said Minnie Atkins gave birth to a child at the home of a Mrs. Woods in Leavenworth, Kansas; that at said time she was consorting with a man by the name of Charles Peterkin who was a soldier stationed at Fort Leavenworth; that the child just mentioned was named Robert Lee Peterkin; that said child died August 15, 1886, and was buried on the next day in Mount Muncie Cemetery, Leavenworth, Kansas.

8. That Robert Lee Peterkin, the child just mentioned, was the first child born to said Minnie Atkins.

9. That Minnie Atkins was the daughter of Thomas Atkins, a Creek Indian, who died about 1878.

10. That said Minnie Atkins was never enrolled on the final rolls of the Creek Nation and that she was not a resident of the Indian Territory at any time from about 1881 down to the present time, except possibly for the space of about one year in 1895.

11. That said Minnie Atkins in the spring of 1888 went to Fort Logan, Colorado, and later went to and resided in other places.

12. That the only children born to said Minnie Atkins after the birth of the above named Robert Lee Peterkin, were Mabel Peterkin, Charlie Harrison and Harvey Harrison; that said Mabel Peterkin, sometimes referred to as Alice or Nancy Peterkin, was born at Fort Logan or Logan Town, Colorado, in 1888, and died at about the age of one year, and was buried on June 18, 1889, in the Fort Logan cemetery; that Charlie Harrison was born at Fort Logan or Logan Town in 1891; that Harvey Harrison was born at Fort Logan or Logan Town in 1893.

13. That said Minnie Atkins is not the mother of Thomas Atkins whose name appears opposite No. 7913 on the above mentioned final roll of citizens by blood of the Creek Nation.

14. That said Minnie Atkins whose name appears opposite No. 210 on the Creek tribal roll of 1895, Euchee Town, had no child by the name of Thomas Atkins.

15. That the purported person attempted to be enrolled by the Commission to the Five Civilized Tribes as Thomas Atkins opposite No. 7913 on the final roll of citizens by blood of the Creek Nation, never existed, but was, and is, a mythical person.

It is therefore considered and ordered that opposite the name of Thomas Atkins at No. 7913 on the final roll of citizens by blood of the Creek Nation a notation or entry be made as follows:

"No person of the name and description of this purported enrollee, Roll. No. 7913, ever existed, nor is any person entitled to share in tribal land or money by reason of said enrollment."

Cato Sells,

Apr 28 1917

Affirmed: Franklin K. Lane, Secretary.

Government's Exhibit A-28.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Page of 1895 Tribal Roll, Euchee Town, Creek Nation, showing name of Thomas Atkins.]

Government's Exhibit A-29.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Page 98, 1890 Census Roll, Euchee Town, Creek Nation.]

Government's Exhibit A-30.

[See insert herewith for reproduction of photostatic copy of portion of Page 8, 1895 Census Roll, Euchee Town, Creek Nation, covering Nos. 205-224, inclusive.]

Government's Exhibit A-31.
C.T.D.

[See insert herewith for reproduction of photostatic copy of Old Creek Indian Census Card, No. 2055.]

---

206 X 204 +
15
219

1 [illegible]
2 [illegible]
3 [illegible]
4 [illegible]

+

1 Bonnie [illegible] Doubtful 4

1 Ed Atkins
2 Mamie Atkins & 2 Children
3 Thomas { 6 Charlie Atkins,
4 Mary { 7 Lessie.
5 Ruby Atkins X

1 [illegible] +

1 George Bailey +
2 Edward "
3 Rebekah "
1 Sallie Jefferson
2 Alvia Tucker
3 Donald Ferguson Arkansas Co
4 [illegible]
5 [illegible]
6 Ethel "
7 Leonard "
8 Lucian "

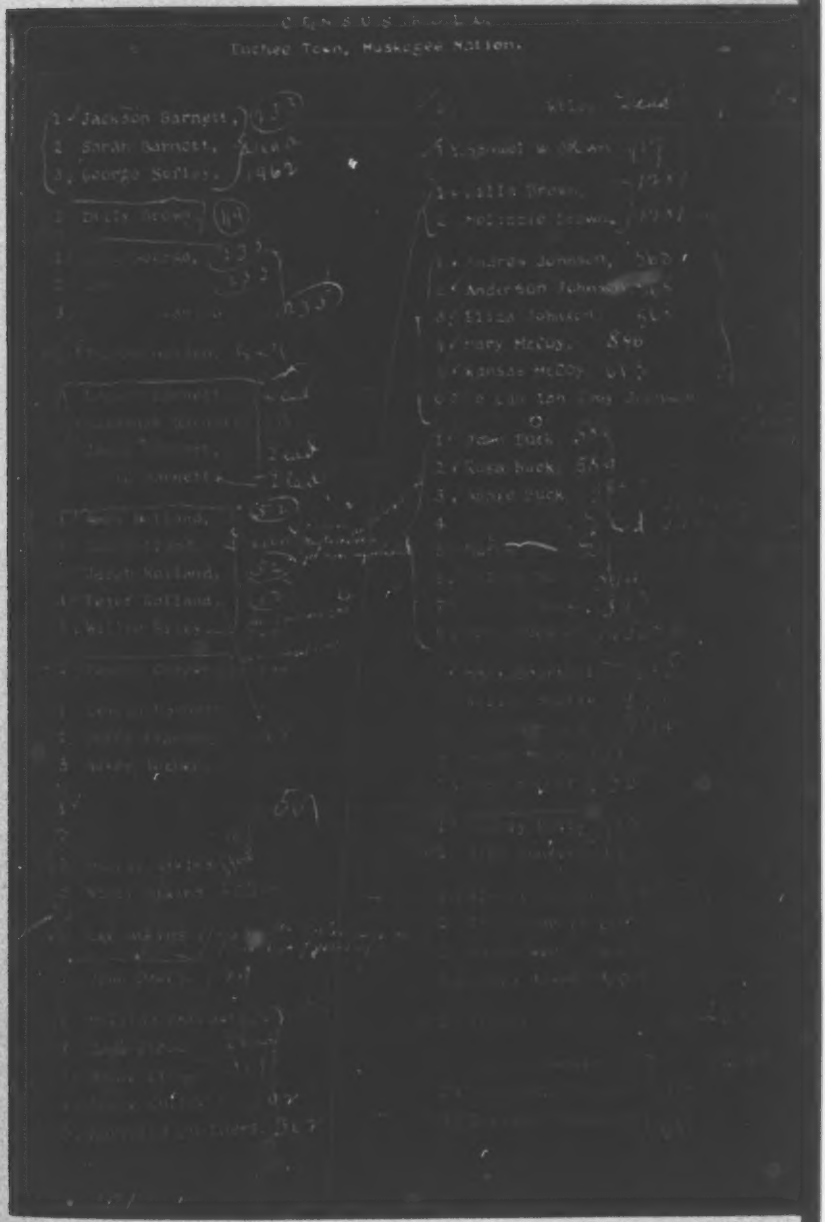
228 X 219

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of that page of 1895 Tribal Roll Euchee Town Creek Nation whereon appears the name of Thomas Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Dec 21 1916 JRP


Tuckee Town, Muskogee Nation.
1. Jackson Barnett,
2. Sarah Barnett,
3. George Sefton,
1962

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of page 98 1890 Census Roll, Euchee Town, Creek Nation.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

CENSUS OF

TOWN

Muskogee Nation Indian Territory

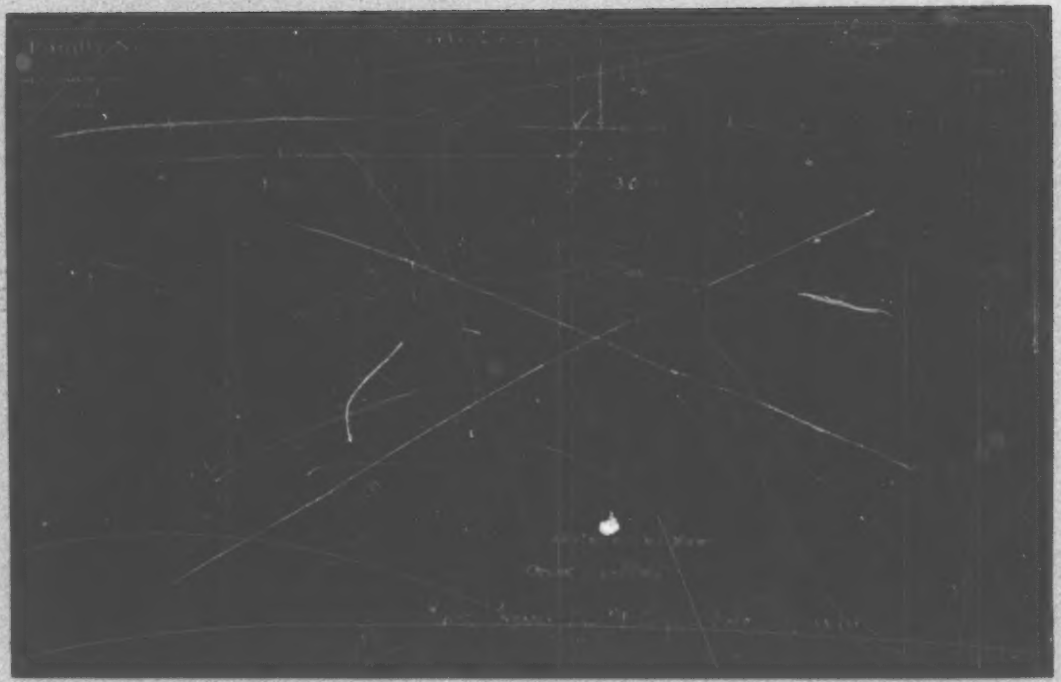
	NAME			
205	Nar hee Mingo	477	✓	
206	Na la mee		✓	
207	Har a	Dead ✓		Dead
208	Miley	Dead ✓	✓	
209	Ed Semmeher	507	✓	
210	Mamie Atkins	✓ 2 Children	✓	
211	Charlie	1654	✓	
212	Susie		✓	
213	Thos	2714	✓	
214	Mary	1659	✓	
215	Nancy	2032 ✓	✓	
216	John Dennis	14 ✓	✓	
217	M. G. Gregory	714 ✓	✓	
218	Carrie	714	✓	
219	~~Ona~~		✓	
220	~~Lelo~~			
221	Lon N. Gregory	714	✓	
222	Jessie G.	714	✓	
223	Foster Baby	New born 714 714	✓	
	Dem Crow	2027 ✓	✓	

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of the portion of page 8, 1895 Census Roll Euchee Town Creek Nation covering Nos. 205 to 224 inclusive.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Dec 21 1916 JRP



Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Old Creek Indian Census Card No. 2055.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Feb 17 1915 CHD (10c revenue stamps)

CREEK Nation. CREEK Roll.

CARD NO. 1655
FIELD NO. 1655

						TRIBAL ENROLLMENT OF PARENTS					
						Name of Father	Year	Name of Mother	Year		
Harrison Charles	2 M.	4	1895	Euchee	511	Harris	Died Prior Citizen	Minnie Harris	1890	Euchee	
Harvey Arthur	"	4	1895	"	514	"	"	"	1890	"	

on 1895 Loyal Roll as Charles Harrison

1895 Harvey

Minnie Harris on 1890 Roll as Minnie Harrison, Page 95
in Michigan

Both on Euchee Creek Roll of 1895

Date of Application for Enrollment
Feby 12 1906

Allotment Certificate
No.

ENROLLMENT

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

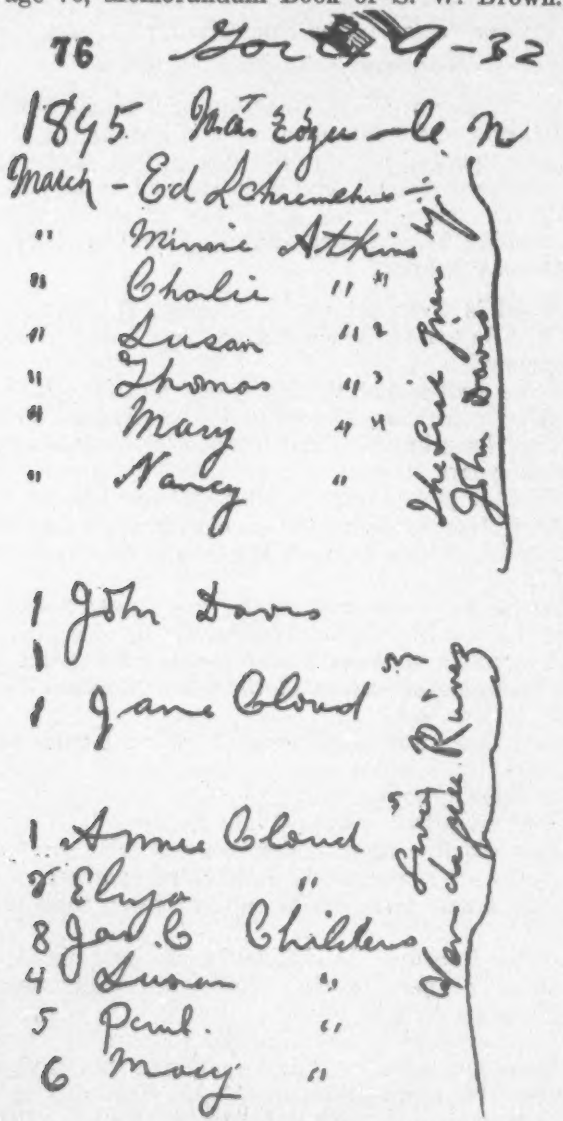
This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Census Card No. 1655.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Apr 25 1917 JRP

Government's Exhibit A-32.

[Page 76, Memorandum Book of S. W. Brown.]



Government's Exhibit A-33.

[See insert herewith for reproduction of photostatic copy of Creek Census Card, No. 1655.)

Government's Exhibit A-34.

DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

Muscogee, I. T., May 5th, 1900.

In the Matter of the Application of Thomas Holden, for Harvey Harrison, for allotment as a citizen of the Muscogee Nation, accompanied by a proper description of the land applied for and a certificate that he is entitled to take in accordance with the rules of the Secretary of the Interior, and Thomas Holden, being sworn by Acting Chairman, Tams Bixby, testified as follows:

Q. What is your name? A. Thomas E. Holden.

Q. How do you represent Harvey Harrison? A. By power of attorney.

Q. Is he a citizen of the Muscogee Nation? A. Yes, sir.

Q. What town does he belong to? A. Euche.

Q. How long has he lived in the Creek Nation? A. About eight years.

Q. What is your postoffice address? A. Choska, I. T.

Q. Does Harvey Harrison, live with you? A. Yes, sir.

Q. Does he own a home of his own in the Creek Nation? A. No, sir.

Q. Are you in possession of the land named herein, which you wish to select for Harvey Harrison? A. Yes, sir.

Q. You make application for Harvey Harrison, for the north east quarter of section 13, township 16, range 15, is that correct? A. Yes, sir.

Q. Are there any improvements on that tract of land? A. Yes, sir.

Q. Is there a house on it? A. Yes, sir.

Q. Who lives in the house? A. Renter.

Q. Does he live there under contract with you? A. He lives there by my permission; we have no contract.

Q. How many acres under cultivation on that land? A. About seven.

Q. Is the improved land fenced? A. Yes, sir.

Q. Does any one else claim this land or any part of it? A. No, sir, not that I know of.

Q. Has any one else any improvements on it? A. No, sir.

Q. Have you been over and examined this land, intending to make this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Both.

Q. Is this land suitable for a home for Harvey Harrison? A. Yes, sir

Q. Are you making this application in good faith in all respects? A. Yes, sir.

Q. Will you accept this land as part of Harvey Harrison's final allotment? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses or burial grounds on this land? A. No, sir.

Thomas E. Holden.

Sworn to and subscribed before me this 5th day of May, 1900, at Muscogee, Indian Territory.

(C) Tams Bixby, Acting Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated May 5th, 1900, in the matter of the application of Thomas Holden, for Harvey Harrison to take an allotment as a citizen of the Creek or Muskogee Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-35.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, I. T., April 9th, 1901.
Muskogee Land Office.

In the Matter of the Application of Charles Bailey for his ward, Charles Harrison to take an allotment of land in the Creek Nation, accompanied by a proper description of the land applied for, and a certificate showing that he has been listed for enrollment as a citizen of said Nation.

CHARLES BAILEY, being first duly sworn by J. G. Lieber, Notary Public testified as follows:

Q. What is your name? A. Charles Bailey.

Q. Are you a citizen of the Muskogee Nation? A. No, sir.

Q. How do you represent Charles Harrison? A. By letters of Guardianship.

Q. Is he a citizen of the Muskogee Nation? A. Yes, sir.

Q. What town does he belong to? A. Euche.

Q. How long has he lived in the Creek Nation? A. Nearly all his life time.

Q. Has he been outside of the Territory in the last four years? A. No, sir.

Q. What is your postoffice address? A. Wagoner.

Q. Does Charles Harrison live with you? A. Yes, sir.

Q. You make application for your ward, Charles Harrison for the north half and south west quarter of the south west quarter of Section 16, Township 17, Range 18, containing 120 acres, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. Yes, sir.

Q. Is there a house on it? A Yes, sir.

Q. Who lives in the house? A. I do.

Q. How many acres under cultivation on this land? A. All of it.

Q. Is it fenced? A. Yes, sir.

Q. Has any one else any improvements on this land? A. No, sir.

Q. Does any one else claim this land or any part of it? A. No, sir.

Q. Do you know where this land is? A. Yes, sir.

Q. Have you been over and examined it with a view to making this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie land.

Q. Is this land suitable for a home for Charles Harrison? A. Yes, sir.

Q. Will you accept this land in part as his final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses or burial grounds on this land? A. No, sir.

Chas. Bailey.

Subscribed and sworn to before me at Muskogee, Indian Territory, this the 9th day of April, A. D. 1901.

(Seal) John G. Lieber, Notary Public.

C.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated April 9th, 1901, in the matter of the application of Charles Bailey for his ward, Charles Harrison to take an allotment of land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-36.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, I. T., July 17, 1901.
Muskogee Land Office.

In the Matter of the Application of Charles Bailey to take an allotment of land in the Creek Nation for Charles Harrison, accompanied by a proper description of the land applied for, and a certificate showing that he has been listed for enrollment as a citizen of said nation.

Charles Bailey, being first duly sworn by John G. Leiber, a notary public, testified as follows:

Q. What is your name? A. Charles Bailey.
Q. Are you a citizen of the Muskogee Nation? A. No, sir.
Q. What is your post office address? A. Wagoner, I. T.
Q. For whom do you make this application? A. Charles Harrison.
Q. Is he a citizen of the Muskogee Nation? A. Yes, sir.
Q. To what town does he belong? A. Euchee Town.
Q. How long has he lived in the Creek Nation? A. 12 years.
Q. Has he been outside of the territory in the past 4 years? A. No, sir.
Q. How do you represent Charles Harrison? A. By letters of guardianship.
Q. Is this boy, Charles Harrison now living? A. Yes, sir.
Q. Does he live with you? A. Yes, sir.
Q. Does he own a home of his own in the Creek Nation? A. No, sir.
Q. You make application for the S. W. ¼ of N. E. ¼ of Sec. 17, T. 17 N., R. 18 E., containing 40 acres, for your ward, Charles Harrison, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. No, sir.

Q. Is there a house on it? A. No, sir.

Q. Does anyone else claim this land or any part of it? A. No, sir.

Q. Have you been over this land and examined it with a view to making this application for Charles Harrison? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie land.

Q. Is this land suitable for a home for your ward, Charles Harrison? A. Yes, sir.

Q. Do you accept this land as his final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school houses, court houses or burial grounds on this land? A. No, sir.

Chas. Bailey.

Subscribed and sworn to before me at Muskogee, I. T., this 17, day of July, 1901.

(Seal) John G. Lieber, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indans, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated July 17, *1801*, in the matter of the application of Charles Bailey to take an allotment of land in the Creek Nation for Charles Harrison.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-37.

OK T.B. X 25 Delray

POWER OF ATTORNEY.

Know All Men by These Presents,

That I, Mrs. Minnie Harrison, of Delray, Mich., do hereby make, constitute, and appoint Thomas E. Holden, of Choska, Indian Territory, my true, sufficient, and lawful attorney, for me in my name to select and file on such lands as I and my

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Cancel Card Field No. 3718.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Mar 13 1915 CHD (10c revenue stamp)

minor children, Charles Harris and Harvey Harris, may be entitled to by reason of our being citizens of the Creek Nation, and to use, lease or rent said lands as he may deem best for the reason that I am not able to attend to the business myself, on account of my temporary absence from the Indian Territory, and to do and perform all necessary acts in the execution and prosecution of the aforesaid business in as full and useful a manner as I might do if I were personally present.

In witness whereof, I have hereunto set my hand and seal, this 2 day of April, 1900.

Mrs. Minnie Harrison.

Signed, sealed, and delivered in the presence of
Louis Edward DeLisle
Charles Grahn

United States of America, State of Mich. ss
Wayne Co. *District.*

I, Peter B. DeLisle, a Notary Public within and for the Wayne County, Mich., do hereby certify that Minnie Harrison named in the foregoing instrument as grantor, appeared before me this day in person and acknowledged that she had signed and executed the foregoing Power of Attorney as her free and voluntary act and deed, and for the purposes and considerations therein mentioned and set forth.

Given under my hand and Notarial seal this 2 day of April, 1900.

Peter B. DeLisle,
Notary Public.

(Seal)
(Revenue stamps.)

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Power of Attorney, given by Minnie Harrison to Thomas E. Holden in the matter of the selection and filing on land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-38.

[See insert herewith for reproduction of photostatic copy of Creek Cancelled Card, Field No. 3718.]

Government's Exhibit A-39.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Muskogee, I. T., August 25, 1904.

In the matter of the application for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation.

Appearance: M. L. Mott, attorney for Creek Nation.

Fred Bowers duly sworn, testified as follows:

Examination by the Commission:

Q. What is your name? A. Fred Bowers.
Q. How old are you? A. 26.
Q. What is your post office address? A. Tallahassee.
Q. Are you a citizen of the Creek Nation? A. Yes, sir.
Q. Do you, make application for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation? A. Yes, sir.
Q. What degree of blood has she? How much blood? A. About ¼ I think.
Q. To what town in the Creek Nation does she belong? A. Euchee.

The 1890 authenticated tribal roll of the Creek Nation examined and Minnie Atkins identified thereon at page 98, Euchee town, under the name of Mamie Atkins; she is also identified on the 1895 pay roll of the Creek Nation, Euchee town, No. 210.

Q. Are you related to Minnie Atkins? A. Yes, sir.
Q. What relation? A. First cousin.
Q. Where is she? A. I don't know.
Q. Where was she when you last heard of her? A. California.
Q. Is she married? A. She was married.
Q. Do you know the name of the man she married? A. No, sir.
Q. How long has it been since she left the Indian Territory? A. Something like 4 or 5 years before the land office opened as near as I can make it out.
Q. Was she here 4 or 5 years before the land office opened? A. Yes, sir.
Q. How long did she stay here then? A. Something like 2 years.
Q. Where had she been before that? A. California.
Q. How long had she been in California before she was here? A. I can't say.

Q. Give me some idea; 10 or 15 years or 5? A. 7 or 8 years I expect.

Q. Where was she born? A. On Elk Creek.

Q. In the Creek Nation? A. Yes, sir.

Q. How old was she when she left the Creek Nation? A. Must have been 17 or 18 years old.

Q. Do you know whether she is living or dead? A. No, I don't.

Q. When did you last hear of her? A. The last I heard of her was when she was here.

Q. 4 or 5 years ago? A. Something like that to the best of my recollection.

Q. You haven't heard of her since that time? A. No, sir, Charley Berryhil- got a letter from her I think since she went to California; something about her father; I will see them about it and get more evidence.

Q. How much time would you like to have to introduce further evidence in the case? A. All I can get; I don't 2 know, how to start out to locate her. She may have left there and went some place else.

The person for whom application is now made has been listed for enrollment on Creek Indian card Field No. 3718, under the name of Minnie Harris; a notation on that card states that she was in Fort Logan, Colorado, in 1894. See Old Creek Card 2055.

This case is continued.

Q. You have no interest in the case other than to see that she gets her rights? A. No, sir.

Henry G. Hains being sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the above case and that this is a full, true and correct transcript of his stenographic notes in same.

Henry G. Hains.

Subscribed and sworn to before me this 29 day of September, 1904. (Seal) Wm. T. Martin, Jr., Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated August 25, 1904, in the matter of the appli-

cation for the enrollment of Minnie Atkins as a citizen by blood of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J. S. H. Jul 10 1916

Government's Exhibit A-40.

C. 3718.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Okmulgee, I. T., October 25, 1904.

In the matter of the application for the enrollment of Minnie Harris as a citizen by blood of the Creek Nation.

Samuel W. Brown, being duly sworn, testified as follows:

By Commission:

Q. What is your name? A. Samuel W. Brown.
Q. How old are you? A. Sixty-one.
Q. What is your post office address? A. Sapulpa.
Q. Are you the Town King of Euchee Town? A. Yes, sir.
Q. Do you know Minnie Harris? A. Yes, sir.
Q. Do you know whether she is living or dead? A. I don't know whether she is living or dead. The last account I had of her she was out of the country but she drew money here.
Q. How long has she been out of the Indian Territory?
A. I think she was here when Judge Moore made the payment here.
Q. Was that the $14.00 Payment or the $29.00 Payment? A. I think it was the $29.00 Payment.
Q. Has she been here since? A. I don't think she was here but she drew her money and she drew some of her brother's money and she didn't return it and left the country.
Q. Did she leave soon after that payment? A. Yes, sir.
Q. And has never been back since then? A. I nefer heard of her being back.
Q. Is she related to you? A. Second cousin.
Q. How long has it been since you heard from her? A. I have not heard from her for a long time. Ed Schrimpsher and Tom Bowles could tell you something about her.
Q. What is Ed Schrimpsher's post office address? A. Wagoner. He is her first cousin.
Q. What is Tom Bowles' post office address? A. I think it is Muskogee.

I, D. C. Skaggs, on oath state that the above and foregoing is a full and true transcript of my stenographic notes as taken in said cause on said date. D. C. Skaggs.

Subscribed and sworn to before me this 4 day of Nov., 1904. (Seal) Charles H. Sawyer, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated Oct. 25, 1904, taken at Okmulgee I. T., in the matter of the application for the enrollment of Minnie Harris as a citizen by blood of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-42.

Creek Indian No. 3718. EK STW

DEPARTMENT OF THE INTERIOR.

Commissioner to the Five Civilized Tribes.

In the matter of the application for the enrollment of Minnie Harris, as a citizen by blood of the Creek Nation.

STATEMENT AND ORDER.

It appears from the records in the possession of this office that on April 24, 1901, the name of Minnie Harris was listed for enrollment by the Commission to the Five Civilized Tribes on Creek Indian card, field number 3718; the name of said person appearing upon the 1890 authenticated tribal roll of Euchee town, which listing was done in order to preserve whatever rights said person might have as a citizen of the Creek Nation. The listing of the name of said person is considered in the nature of an original application for her enrollment as a citizen by blood of the Creek Nation.

Testimony was taken in this case on October 25, 1904.

This office has, *though* its field parties operating in the Creek Nation, and by interviews in this office of prominent Creek Indians of extensive acquaintance, made every effort

to ascertain the whereabouts of said person, but no further information has been obtained.

It is considered that this person is not entitled to enrollment either because she died prior to April 1, 1899, or because of non residence, or because she has been enrolled under some other name.

I am, therefore, of the opinion that the application for the enrollment of Minnie Harris, as a citizen of the Creek Nation should be dismissed, and it is so ordered.

Tams Bixby, Commissioner.

Muskogee, Indian Territory, Feb 20 1907.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Statement and Order dated Feb. 20, 1907, in re enrollment of Minnie Harris as a citizen of the Creek Nation.

GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

Apr 25 1917 JRP

Government's Exhibit A-44.

[See insert herewith for reproduction of photostatic copy of Creek Census Card, No. 2032.]

Government's Exhibit A-45.

5-2-17

Farms to Sell and Rent, Houses to Sell and Rent, Stock to Sell, All Kinds of Business Promptly Attended to.

WAGONER REAL ESTATE AND COLLECTING AGENCY.
J. T. Hall, Manager.

Dawes Commission, Wagoner, Ind. Ter., June 25, 1901.
Muskogee, I. T.

Gentlemen:

Please send me, by return mail, a statement of my filing papers, as it will be some time before I receive my filing certificate. Respectfully, Nancy Atkins.

P. S. I desire the numbers of my land .... N-A-

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Creek Census Card No. 2032.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

May 2 1917 JRP

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Atkins to Daws Commission, Dated June 25, 1901, File No. 9532.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-46.
5-2-17

Farms and Residences for Sale and Rent. Choice Residence and Business Lots Cheap. Teams and Milch Cows and all Kinds of Personal Property bought and Sold. Business Promptly Attended to.

WAGONER REAL ESTATE AND LOAN CO.
J. T. Hall, Manager.

Daws Commission, Muscogee, I. T.

Wagoner, Ind. Ter., July 29, 1901.

Gentlemen:

Please inform me as to the necessary steps to take in filing for my brother, Lee Adkins who was about 37 yrs. old when he was killed at Checotah in Nov. 1898. Also, I have a sister named Minnie Adkins, who went to Colorado two years ago, last June, I received a letter from her last November but have heard nothing from her since. Can I file for her before it is too late? Please send my filing papers by return mail as I am very anxious to receive them at once. I desire to rec. papers so that I can make arrangements at once about other business. I filed on the 11th of June, 1901, I think.

Nancy Adkins.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a

letter from Nancy Adkins to the Dawes Commission, dated July 29, 1901, Letter File No. 11229.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-47.
5-2-17.

(Book 63—Page 396. (1901))

Muskogee, Indian Territory,
August 9, 1901.

Mrs. Nancy Adkins,
Wagoner, Indian Territory.

Dear Madam:

The Commission is in receipt of your favor of July 29th, in which you state that your brother, Lee Adkins, was killed in November, 1898.

You also state that you have a sister named Minnie Adkins in Colorado, and requesting that your filing papers be sent you.

In reply to your letter you are advised that the Creek agreement provides that all citizens living on April 1, 1899, entitled to enrollment shall be placed upon the rolls made by this Commission. Your brother having died prior to that date would not be entitled to enrollment.

With reference to your sister's enrollment, you are advised that Act of Congress of June 28, 1898, contains the following provision:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claim citizenship."

Mrs. Nancy Adkins——2

The Creek agreement approved May 25, 1901, contains the following provision:

> "Said Commission shall have authority to enroll as Creek citizens x x x x x such other recognized citizens found on the Creek rolls as might, by reason of non-residence, be excluded from enrollment by section twenty-one of said Act of Congress approved June 28, 1898."

Your certificate of selection will not be mailed to you until 90 days from the date of your application.

Yours truly,

T. B. Needles,
Commissioner in Charge.

RBE

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Nancy Adkins, dated August 9, 1901, as same appears on pages 396 and 397 in letter press book No. 63.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-48.
5-2-17

Farms and Residences for Sale and Rent. Choice Residence and Business Lots Cheap. Teams and Milch Cows and all Kinds of Personal Property bought and sold. Business Promptly Attended to.

WAGONER REAL ESTATE AND LOAN CO.
J. T. Hall, Manager.

Wagoner, Ind. Ter., August 15, 1901.

Commission to The Five Civilized Tribes,
Muskogee, Ind. Ter.

Gentlemen:

Your favor of the 9th inst. in reply to mine of the 29th ult. at hand and contents noted. Many thanks for information. I failed to state to you that my sister, Minnie Atkins, of whom I wrote you was born in the Indian Territory, and has lived here all her life until a little less than three years ago, when she left temparyly for her health, going to Colorado, and she wrote me from that place on the 12th of last Nov. Of course she has been a citizen of the Indian Territory and enrolled all her life and has drawn Creek money as myself— She belonged to the same town as myself. I write this as I failed to state in my last that she was born in the Territory and as I see from yours, which I inclose, that you thought she had not moved to the I. T. *Please write at once* as it is getting late and I am anxious that she has her rights as she is entitled to and needs them.

Respectfully,
Nancy Adkins.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Adkins to the Commission to the Five Civilized Tribes, dated August 15, 1901, Letter File No. 12008.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-49.
5-2-17

(No. 65 Page 126.)

Muskogee, Indian Territory,
August 19, 1901.

Nancy Adkins,
Wagoner, Indian Territory.

Dear Madam:

The Commission is in receipt of your favor of the 15th instant, relative to the enrollment of your sister, Minnie Adkins, whom you say has lived here all her life, until about three years ago, when she left temporarily for her health, going to Colorado.

In reply to your letter you are advised that, as stated in the Commissioner's letter to you on the 9th instant, it will be necessary for your sister to comply with the following provisions of the act of the Creek agreement, approved May 25, 1901:

> "Said Commission shall have authority to enroll as Creek citizens x x x x x such other recognized citizens found on the Creek rolls as might, by reason of non-residence, be excluded from enrollment by section twenty-one of said Act of Congress, approved June 28, 1898: Provided, That such non-residents shall in good faith, remove to the Creek Nation before said Commission shall complete the rolls of Creek citizens as aforesaid."

Yours truly,

T. B. Needles,
Commissioner in Charge.

RBE

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Nancy Adkins, dated August 19, 1901, as same appears on page 126 in letter press book number 65.

(Seal)

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-50.
5-2-17

(Book 238—Page 152.)

Muskogee, Indian Territory,
March 7th, 1903.

Mrs. Nancy Atkins,
Nowata, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of March 9th, in which you ask that your deed be sent to you.

In reply you are advised that it will be necessary for you to address Hon. P. Porter, Muskogee, Indian Territory, with reference to the delivery of your deed.

Respectfully,

Chairman.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the deposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter to Mrs. Nancy Atkins, dated March 7th, 1903, as same appears on page 152 in letter press book No. 238.

(Seal)

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-51.
5-2-17.

Nowata, I. T., Apr. 6th, 1903.

Does Commissioners

Kind Sirs.

I am here by notified to make my appearance at muskogee right a way and I thought that I would write to youal and find out what is going on down there fr the Creeks—are the deeds to be sent out or not. some indian sent this word to me and I dont Know what he means Or who he is It might be crazy snake fr what I Know now please notifie me what are youal doing fr the Creeks

Yours Oblige

Nancy Atkins

Nowata I. T. Box 121

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter from Nancy Atkins to the Dawes Commission, dated April 6th, 1903, Letter File No. 9409.

(Seal) GABE E. PARKER,

Superintendent for the Five Civilized Tribes.

W.H.A. Apr 10 1917 JRP

Government's Exhibit A-52.
5-2-17

(Book 254, Page 412.)

Muskogee, Indian Territory,
Apr. 14, 1903.

Mrs. Nancy Atkins,
Nowata, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of recent date in which you ask with reference to the delivery of the deeds covering the allotment as made to you in the Creek Nation.

In reply you are advised that the deeds covering your allotment have been forwarded to Washington for approval

of the Secretary of the Interior, and it is probable that the same will be ready for delivery within the next eight weeks.

Respectfully,

(Signed) T. B. Needles,
Commissioner in Charge.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of a letter press copy of a letter dated April 14, 1903, to Nancy Atkins, as same appears on page 412 in letter press book No. 254.

(Seal) GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

W.H.A. Apr 13 1917 JRP

Government's Exhibit A-53.
5-2-17

DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes
Muskogee Land Office, January 23, 1901

In the matter of the application of Nancy Atkins for allotment for herself as a citizen of the Creek Nation, accompanied by proper description of lands applied for, and a certificate showing that she is entitled to take under the rulings of the Secretary of the Interior. Nancy Atkins being duly sworn by G. L. V. Emerson, a Notary Public, testified as follows:

Q. What is your name? A. Nancy Atkins.

Q. Are you a citizen of the Muskogee Nation? A. Yes, sir.

Q. What town do you belong to? A. Euchee.

Q. How long have you lived in the Creek Nation? A. All my life.

Q. Have you been outside the Territory in the last three years? A. No, sir.

Q. What is your post office address? A. Wagoner, I. T.

Q. Do you own a home of your own in the Creek Nation? A. No, sir.

Q. You make application for yourself for the N. W. ¼ of section 21, township 18, range 18, is that correct? A. Yes, sir.

Q. Are there any improvements on this land? A. No, sir.

Q. Does any one else claim this land or any part of it? A. Josephine C. Barber has filed on it, but I understand that she is a Cherokee citizen, and if such is the case and she is not permitted to take this land as an allotment in the Creek Nation I desire to take the land as my allotment. If Josephine C. Barber is permitted to take this land as an allotment in the Creek Nation, I do not intend to make any claim to it and will withdraw this application for it.

Q. Do you know where this land is? A. Yes, sir.

Q. Have you been over it and examined it with a view to making this application for it? A. Yes, sir.

Q. Is it prairie or timber land? A. Prairie.

Q. Is this land suitable for a home for yourself? A. Yes, sir.

Q. Will you accept this land in part as your final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any school houses, court houses, churches or burial grounds on this land? A. No, sir.

her
Nancy X Atkins
mark

Witness: W. J. Cook, Lono Cummings

Subscribed and sworn to before me this 23 day of January, A. D., 1901. (Seal) Guy L. V. Emerson, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated Jan. 23, 1901, in the matter of the application of Nancy Atkins for allotment for herself as a citizen of the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Filed on by Joseph C. Potter

Exercise
of
Patent
Drawing attached

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Allotment for Nancy Atkins.

GABE E. PARKER,
Superintendent for the
Five Civilized Tribes.

Jul 10 1916 J.S.H.

Government's Exhibit A-54.

[See insert herewith for reproduction of photostatic copy of Application for Allotment for Nancy Atkins.]

Government's Exhibit A-55.
5-2-17

DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes
Muskogee, I. T., June 11th, 1901
Muskogee Land Office

In the Matter of the Application of Nancy Atkins to take an allotment of land in the Creek Nation, for herself accompanied by a proper description of the land applied for and a certificate showing that she has been listed for enrollment as a citizen to said Nation.

Nancy Atkins being duly sworn by John G. Leiber, a Notary Public testified as follows:

Q. What is your name? A. Nancy Atkins.
Q. Are you a citizen of the Muskogee Nation? A. Yes, sir.
Q. What town do you belong to? A. Euchee.
Q. How long have you lived in the Creek Nation? A. All my life.
Q. Have you been outside of the Territory in the last four years? A. No, sir.
Q. What is your post-office address? A. Wagoner, I. T.
Q. Do you own a home of your own in the Creek Nation? A. No, sir.
Q. You make application for the S2 of NE4 and Lots 1 and 2 of Sec. 2, T. 17, R. 15, containing 161.34. acres, is that correct? A. Yes, sir.
Q. Are there any improvements on this tract of land? A. No, sir.
Q. Is there a house on it? A. No, sir.
Q. Does any one else claim this land or any part of it? A. No, sir.
Q. Have you been over this land and examined it with a view of making this application for it? A. Yes, sir.
Q. Is it prairie or timber land? A. It is part prairie and part timber.
Q. Is this land suitable for a home for yourself? A. Yes, sir.

Q. Do you accept this land as your final allotment? A. Yes, sir.

Q. Have you made this selection in good faith in all respects? A. Yes, sir.

Q. Are there any churches, school-houses, court-houses, or burial grounds on this land? A. No, sir.

her
Nancy x Atkins
mark

Witness: W. J. Hastain, W. J. Cook.

Subscribed and sworn to before me at Muskogee, Indian Territory, this the 11th day of June, 1901.

(Seal) John G. Lieber, Notary Public.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Testimony dated June 11th, 1901, in the matter of the application of Nancy Atkins to take an allotment of land in the Creek Nation.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10, 1916

Government's Exhibit A-56.
5-2-17

No. .....

COMMISSION TO THE FIVE CIVILIZED TRIBES.

APPLICATION FOR ALLOTMENT.

Creek Nation. Muskogee Land Office.

I, Nancy Atkins, do hereby make application to have set apart to me, and to those whom I lawfully represent, lands selected by me, as follows: 88

Roll Number, C6292; Names, Nancy Atkins; Relationship of Persons First Named, ...; Subdivision of S½ of NE¼ and Lots 1 and 2 of Section 2, Town 17, Range 15; Acres, 161; 100ths, 35.

I, Nancy Atkins, do solemnly swear, that I have in person

actually been upon the lands so selected by me for myself, as above described, and am fully informed as to the location of the same, and the character of the soil; that said lands are suitable for homes, and that I have in good faith selected such lands, and will accept the same in allotment to myself, and that no part of said lands is lawfully held by any other member of the Creek Tribe.

her
Nancy x Atkins
mark

Witness: W. J. Hastain, W. J. Cook.

Subscribed and sworn to before me at Muskogee, I. T., this 11th day of June, A. D. 1901.

(Seal) John G. Lieber, Notary Public.

Approved and Certificate issued this .... day of .....

....., Register.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Allotment for Nancy Atkins.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-57.

5-2-17

1261 (44) 161.34
40.71
120.63

C 2032 & CV

Department of the Interior
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee Land Office.

APPLICATION FOR HOMESTEAD ALLOTMENT.

I, Nancy Atkins, do hereby make application to have the lands hereinafter described set apart as homesteads for myself

and those whom I lawfully represent, the same being a part of the lands already selected by me as allotments for myself and those whom I lawfully represent, as follows:

Roll No., 6292; Name, Nancy Atkins; Relation to First Named Person, ...; Subdivision of Lot 2 of Sec. 2, Town 17, Range 15; Acres 40; 100ths, 71

Dated at Muskogee, Indian Territory, this 3rd day of May, 1902.

her
Witnesses to mark: Nancy x Atkins
mark
Anthony Crafton,
Jos. Willoughby.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Application for Homestead Allotment for Nancy Atkins.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

J.S.H. Jul 10 1916

Government's Exhibit A-58.
5-3-17

Gov. Ex. 2—Eq. 2131—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Minnie Atkins to H U Bartlett as the same appears on the records of this office. Filed 4 day of Nov 1912 at 8 o'clock A M., and recorded in volume 57 at page 404.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb, 1915.

(Seal) GUS L. COREY, County Clerk,
By ....., Deputy.

(10c revenue stamp) Jennings Ptg. Co. Sapulpa

12971

QUIT-CLAIM DEED.

Know All Men by These Presents That I, Minnie Atkins, in consideration of the sum of Three Hundred ($300) Dollars in hand paid, the receipt of which is hereby acknowledged, do hereby quit claim, grant, bargain, sell and convey unto H. U. Bartlett the following described real property and premises situate in Creek County, State of Oklahoma, to-wit:

The West half of the Northeast quarter of Sec. 5, and the West half of the Northwest quarter of Sec. 4, Township 18 North, Range 7 East, containing 160 acres, more or less.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold, said described premises unto the said grantee, heirs and assigns, forever.

Signed and delivered this 2nd day of October, 1912.

Minnie Atkins (seal)

Mico T. Hays,

Witnesses: Nowata, Okla.

W. C. Brown, 1120 Com. St., Lawrence, Kan.

ACKNOWLEDGMENT.

State of Kansas, Douglass County, ss.

Before me, the undersigned, a notary public, in and for said county and state, on this second day of November, 1912, personally appeared Minnie Atkins, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above set forth.

W. E. Hazel,
Notary Public.

Mico T. Hays, Nowata, Okla.

My commission expires Oct 11, 1914. (Seal)

W. C. Brown, 1120 Com. St., Lawrence, Kans.

Filed for record at office of register of deeds, Creek County, Oklahoma, Nov. 4, 1912, at 8 o'clock, A. M., recorded in Book 57 at page 404. H. H. Adams, Register of Deeds.

Government's Exhibit A-59.
5-3-17

Gov. Ex. 3—Eq. 2131.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Grant between H. U. Bartlett to Gypsy Oil Co. as the same appears on the records of this office. Filed 3 day of Dec., 1912, at 9 o'clock A. M., and recorded in volume 70 at page 586.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feby., 1915.

(Seal) GUS L. COREY, County Clerk.
By ....., Deputy.

(10c revenue stamp.) Jennings Ptg. Co., Sapulpa.

13770

OIL AND GAS GRANT.

This indenture, made and entered into this, the 29th day of November, 1912, by and between H. U. Bartlett, of Mannford, Oklahoma, party of the first part, and Gypsy Oil Company, a corporation, organized under the laws of the State of Oklahoma, party of the second part, does

Witness: That: For and in consideration of the sum of Sixteen Hundred Twenty & 10/100 ($1620.10) Dollars, this day in hand paid to the party of the first part by the party of the second part, the receipt whereof is hereby acknowledged, the party of the first part has this day granted, bargained, sold and conveyed, and by these presents, doth hereby grant, bargain, sell and convey unto the Gypsy Oil Company, its successors and assigns, all the oil and gas in and under the following described tract or parcel of land, lying and being in Creek County, State of Oklahoma, and described as follows, to-wit:

NW¼ of NW¼ of Section 4, and SW¼ of NE¼, and Lot 2, Section 5, township 18 North, Range 7 East, and Lot 4 of section 4, township 18 North, Range 7 east, containing one hundred sixty two & 01/100 (162.01) acres, more or less, together with the right to enter upon said premises at all times for the purpose of mining, drilling and operating for oil, gas and water and to erect and maintain all buildings, structures, pipes, pipelines and machinery necessary for the production

and transportation of oil, gas or water on, upon and across said lands, provided, however, the party of the first part shall have the right to use said premises for farming purposes, except such parts thereof as shall be occupied by the party of the second part, or as are necessary to be used for the proper development of the above described lands by the party of the second part, its successors or assigns.

It Is Agreed on, by and between the parties hereto, as follows:

First. In case no well for oil or gas is commenced to be drilled on said above described premises within one year of date hereof, all rights and obligations secured under this grant shall cease and determine, unless the party of the second part, its successors or assigns, shall elect to continue the same in force as to all of said above described premises by paying an annual rental of One ($1.00) Dollars per acre, payable quarterly in advance for all of said premises for each year until such well is commenced. but these continuances may not exceed five (5) years from this date, and if by such time party of the second part shall not have commenced a well, all its right hereunder shall cease.

Second. It is expressly declared that if oil or gas be found in paying quantities, then the party of the second part shall become at once vested with an estate in and to such minerals, with the right to produce the same as long as either of such minerals shall be produced in paying *quanties.*

Third. Should oil be found upon said premises in paying *quanties,* the party of the second part hereby agrees to and shall pay to the party of the first part, out of the proceeds of all oil produced and saved from said premises, the one-eighth part of said proceeds as royalty, but is under no obligations to find a purchaser of such oil.

Fourth. Should gas be found in paying quantities in any well, the consideration in full for such first party shall be at the annual rate of two hundred and fifty dollars ($250.00), payable quarterly in advance, for the gas from each well while said gas is being pipes and used off said premises, together with privileges of said party to pipe and use gas from *saud* well or wells to heat and light one dwelling house on said premises so long as said grantee continued to pipe and use said gas from said well, said party making his own connections, but party of the second part does not guarantee against a deficient supply of gas for said dwelling, by pumping said well or wells, or otherwise, nor shall it be liable for any in-

jury or injuries to the person or property of said first party arising out of the use of said gas.

Fifth. Said second party shall have the privilege of excavating, drilling or boring for water, and of using sufficient water, wood, gas, and oil from the premises herein, granted to run all machinery for the prosecution of said business on this and adjoining premises operated jointly as one property.

Sixth. The second party shall have free pipe line right of way over said premises and any other property owned and controlled by the first party, together with all right of ingress and egress for the purpose of laying maintaining, operating and removing, as hereinafter provided, said pipe line and applicances used in connection therewith, but second party shall bury, when requested to do so by first party, all its oil and water lines used to conduct oil, gas or water over said premises.

Seventh. The second party shall have free use of the land herein conveyed for the purpose of erecting and maintaining such tankage as may be necessary for the caring for oil produced by said second party.

Eighth. All rents, royalties and monies due or to become due under the terms of this instrument may be paid to the party of the first part in person, or by check of the second party deposited in the United States mail at Tulsa, Oklahoma, for transmission to the party of the first part, at the post office address of Mannford, Oklahoma. Date of so depositing in mail shall be taken and held as true date of payment and payment so made shall be binding, notwithstanding party of the first part shall have sold, transferred or otherwise conveyed, or disposed of said premises, or his right to such rentals, or royalties, in whole or in part, until actual notice of such change in ownership is given to party of the second part in writing, signed by party of the first part and his grantee, grantees, or assigns, and, after such notice such payments can be made to such grantee, grantees, or assigns in like manner by depositing check in United States mail to be transmitted to him or them at a postoffice address to be designated in the notice above required.

Ninth. The party of the first part shall pay and discharge all liens, taxes and assessments, charges and encumberances that are now against or that may hereafter accrue be levied or assessed against said premises before the same become delinquent or due, and failing so to do, party of the second part is hereby authorized to advance, but is under no

obligation so to do, funds necessary to pay and pay off and discharge the same, and, in such event, it shall have a lien upon said premises and all the rentals and royalties accruing hereunder to secure such advancement or advancements, and may retain such royalty and rentals and apply the same on such advancement or advancements until the same is or are discharged and satisfied in full.

Tenth. In event royalties accruing under this instrument to the party of the first part are paid by the pipe line or pipe line companies to whom the oil produced from said premises is sold or run, such pipe line company or companies may pay the same in the same manner and with like effect as such payment is herein provided to be made by the party of the second part.

Eleventh. It is further provided that if oil or gas in paying quantities shall be found, and the party of the second part should conclude that it does not desire to operate longer under this lease, then the right is conferred to surrender the same and such surrender may be made by executing a release and filing it in the office of the register of deeds of the county in which the land is located and giving notice thereof to the party of the first part, his successors or assigns, in writing, deposited in the United States mail at Tulsa, Oklahoma, addressed to him or them at the postoffice address furnished in accordance with the provision of paragraph eight. Party of the second part shall have, during the life of this grant and within ninety (90) [] after the termination thereof, from any cause, voluntary or involuntary, the right to remove all buildings, tanks, structures, pipes, pipe lines and machinery used for or in the production or transportation of oil, has or water, and all fixtures placed on or attached to said land, including the right to pull and remove casing in producing or non-producing oil, gas or water wells, and for this purpose shall have free ingress, egress, and regress upon, over and across said above described lands.

Twelfth. All of the above stipulations agreements and obligations of this grant shall be binding on both parties hereto and they shall apply with equal force to their heirs, successors, assigns and legal representatives.

Witness out hands this, the day and year first above written.

Witness: C. E. Crain, Jr. H. U. Bartlett.

State of Oklahoma, County of Tulsa, ss.

Before me, T. C. Wilson, Jr., a Notary Public within and for the above named county and state, on this 29th day of November, 191.., personally appeared H. U. Bartlett to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In witness whereof, I have hereunto affixed my hand and official seal on this, the day and year last above written.

T. C. Wilson, Jr., Notary Public.

My commission expires: October 9th, 1916. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 3 day of Dec., A. D. 1912, at 9 o'clock, A. M., and duly recorded in Book 70 at page 586. H. H. Adams, Register of Deeds.

Government's Exhibit A-60.
5-3-17

Gov. Ex. 4.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Bargain and Sale Deed Statutory Form from Minnie E. Folk to Alexander J. McNab, Jr., Trustee, as the same appears on the records in this office. Filed 22 day of June, 1914, at 1 o'clock P. M., and recorded in volume 103 at page 85.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) Gus L. Corey, County Clerk.

By ....., Deputy.

(10c revenue stamp.) Jennings Ptg. Co., Sapulpa.

11336

BARGAIN AND SALE DEED STATUTORY FORM.

The grantor, Minnie E. Folk, formerly Minnie E. Atkins of Seattle, in the county King, and state of Washington, for and in consideration of One Dollar in hand paid, bargain, sell and convey to Alexander J. McNab, Jr., Trustee of Salmon in the county of and ..... State of Idaho, all her right, title and interest, in and to the following described real estate.

The south west one quarter of the northwest one quarter of section four (4), and the southwest one quarter of the northeast one quarter of section Five (5), and Lot numbered two (2) of section five (5), surplus allotment comprising 120.85 acres, and Lot numbered four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) North, range seven (7) east, being the allotment, in the Creek Indian Nation, of Thomas Atkins, Creek Roll Number 7913, containing 162.01 acres, more or less, in toto.

situated in the county of Creek, state of Oklahoma.

Dated this 13th day of June, 1914.

Minnie E. Folk (Atkins) (Seal)
Harry B. Folk
(her husband) (Seal)

Witnesses:

To Minnie E. Folk
J. G. McComb
Catherine Sisk McComb
E. C. Hanford
John P. Garvin

To Harry B. Folk
F. B. Donis
O. W. Willtree

State of Washington, County of King—ss.

This is to certify, that on this 13th day of Jun*d*, A. D. 1914, before me, John P. Garvin, a notary public in and for the state of Washington, duly commissioned and sworn, personally come Minnie E. Folk (Atkins) to me known to be the identical person described in and who executed the within instrument and acknowledged to me that she signed and sealed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

(Seal)

John P. Garvin,
Notary Public in and for the State of Washington residing at Seattle.

Commission expires June 29, 1917.

The State of Washington, County of Spokane—ss.

I, R. S. Cordiner, a notary public in and the state of Washington do hereby certify that on the 16th day of June, A. D. 1914, personally appeared before R. S. C. me, Harry

B. Folk to me known to be the identical person described in and who executed the within instrument, and acknowledged that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal, this 16th day of June, A. D. 1914.

(Seal) R. S. Cordiner,

Notary Public in and for the State of Washington, residing at Spokane.

Commission expires December 16, 1914.

State of Oklahoma, County of Creek—ss. This instrument was filed in my office for record on the 22 day of June, 1914, at 1 o'clock, P. M., and duly recorded in Book 103, page 85. Huber Hughes, Recorder of Deeds.

Government's Exhibit A-61.

Gov. Ex. 5.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Alexander J. MacNab, Jr., Trustee, to Gem Oil Co., as the same appears on the records of this office. Filed 29 day of June, 1914, at 1 o'clock P. M., and recorded in volume 101 at page 259.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

11481

OIL AND GAS LEASE.

This Agreement made and entered into this 24th day of June, 1914, by and between Alexander J. MacNab, Jr., the owner as trustee of the land and property hereby demised, hereinafter referred to as the lessor, and Minnie E. Folk, formerly Minnie E. Atkins, mother and sole heir of Thomas Atkins, deceased, and her husband Harry B. Folk, the parties of the first part, and Gem Oil Company, a corporation, of Tulsa, State of Oklahoma, hereinafter referred to as the Lessee, the party of the second part:

Witnesseth that the Lessor, in consideration of the sum of One Thousand Dollars ($1000.00) to the said lessor in hand well and truly paid by the Lessee, the receipt of which is hereby acknowledged, does hereby grant demise, lease and let unto the lessee, its successors, heirs and assigns, all of the oil and gas in and under the following described tract of land, and also the said tract of land for the purpose and with the exclusive right of entering upon and operating thereon and removing therefrom said oil and gas, and of laying pipe lines, building tanks, powers, stations and structures, thereon for producing, extracting, storing and disposing of said products and with the right to use oil, gas and water therefrom, and all rights and privileges necessary for convenience for such operations; also, the right to remove, at any time, all property, pipes, casing, material, buildings, and improvements placed, or erected in or upon said land by the lessee; said land being all of that certain tract of land situate in Creek County, State of Oklahoma, described as follows, to-wit:

The southwest one-quarter of the Northwest one-quarter of section four (4), and the southwest one-quarter of the Northeast one-quarter of Section five (5), and lot numbered two (2) of Section five (5), surplus allotment, comprising 120.85 acres, and lot numbered four (4) of section four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) north range seven (7) East, being the allotment in Creek Indian Nation of Thomas Atkins, deceased, Creek Roll Number 7913, containing 162.01 acres, more or less.

To Have and To Hold the same for and during the term of five years from the date hereof and as much longer thereafter as oil or gas is found therein or said premises developed or operated.

The lessee agrees to deliver to the credit of the lessor free of cost in the pipe line to which it may connect its wells the equal one-eighth part of all crude oil produced and saved from the above described lands.

If gas be found in paying quantities, the lessee agrees to pay to the lessor Two Hundred and Fifty Dollars each year in advance, for the product of each well from which gas only is produced while the same is being sold off the said land.

The lessor to have, free of cost, sufficient gas from any wells drilled on the said land to light and heat one dwelling house upon said land, the same to be taken at the mouth of the well at the lessor's risk and to be used economically.

The lessee agrees to pay to the lessor for gas produced from any oil well and used off the premises at the rate of fifty dollars per year, for the time during which gas shall be used, said payments to be made each three months in advance.

The lessee agrees to bury all pipe lines in cultivated fields below the depth of plow whenever requested to do so by the lessor, and also to pay the lessor for damage done to growing crops while drilling.

No well shall be drilled nearer than two hundred feet to any building now on said premises, without the consent of the lessor.

If a well is not commenced on said premises within one year from the date hereof, this lease shall become null and void, unless the lessee shall pay or tender to the lessor a rental of One Dollar per acre, in advance, for each additional one year such commencement is delayed from the time above mentioned for the commencement of such well until a well is commenced on said land. It is expressly agreed that the right to extend and continue this lease is fully paid for by the consideration above mentioned, and that the said payment or tender when made shall fully and completely extend this lease from time to time until a well is commenced. The drilling of a producing well on said premises shall operate as a full liquidation of all rentals due or payable under this provision during the remainder of the term of this lease.

The completion of drilling operations which result in a dry hole or a well not producing oil or gas in paying quantities shall be in lieu of all rentals accruing from and after the date of the commencement of said operations, for a period expiring one year after the termination of said operations, and this lease shall be in full force and effect for said time as fully as if said rentals had been paid or a producing well completed.

All payments of money under this lease may be made or tendered by valid check direct to the lessor or by registered letter addressd to the lessor at his last known post office address, or deposited to his credit in the Continental National Bank of Salt Lake, Utah.

The lessee shall have the privilege of paying off, or assuming any or all mortgages, taxes, or other incumberances against the leased premises, and upon so doing, will be subrogated to the rights of the holder thereof.

The lessee shall not be bound by any change in the ownership of said land until presentation of abstract satisfactorily showing same.

The benefit of homestead and exemption laws of the state of Oklahoma are hereby expressly waived.

All the terms and conditions herein shall extend and apply to the respective heirs, executors, administrators and assigns of the parties hereto.

It is hereby agreed that this lease shall be in force and effect and that the second party is not bound to conduct drilling operations until title is perfected of record in the lessor.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

Executed in triplicate.

Alexander J. MacNab, Jr., Trustee, (Seal)
Minnie E. Folk, (Seal)
Harry B. Folk. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Alexander J. MacNab, Jr., to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Minnie E. Folk to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Washington, County of King, ss.

On this 24th day of June, A. D. 1914, before me, the undersigned a notary public for the State of Washington, personally appeared Harry B. Folk, to me known to be the identical person who executed the within instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

J. A. Cathcart,
Notary Public for the State of Washington, residing at Seattle.

My commission expires Jan. 4, 1915. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 29 day of June, 1914, at 1 o'clock P. M. and duly recorded in Book 101 at page 259. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-62.

Gov. Ex. 6.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Assignment of Oil & Gas Lease from Gem Oil Co. to Chas. Page et al., as the same appears on the records of this office. Filed 6 day of July, 1914, at 8 o'clock A. M., and recorded in volume 102 at page 75.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feby., 1915.

(Seal) Gus L. Corey, County Clerk.
By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

11613.

ASSIGNMENT OF OIL AND GAS LEASE.

Whereas, Heretofore, on the 24th day of June, 1914, Alexander J. MacNab, Jr., the owner as trustee of the lands and properties hereby demised, herein referred to as the lessor, and Minnie E. Folk, formerly Minnie Atkins, mother and sole heir of Thomas Atkins, deceased, and her husband, Harry B. Folk, made, executed and delivered to the Gem Oil Com-

pany an oil and gas lease on the properties hereinafter described.

Now, for and in consideration of the sum of One Dollar ($1.00) in hand paid, the receipt of which is hereby acknowledged, the Gem Oil Company does hereby assign, set over and convey equally unto Charles Page and R. A. Josey the said oil and gas lease and its right, title and interest in and to the oil and gas lying in and under the following described lands, situate in the County of Creek, in the State of Oklahoma, to-wit:

The Southwest quarter (SW4) of the Northwest quarter (NW4) of Section Four (4) and the Southwest quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) of Section Five (5) Township Eighteen (18) North, Range Seven (7) East, and Lot Four (4) of Section Four (4), Township Eighteen (18) North, Range Seven (7) East.

To Have and To Hold unto the said Charles Page and R. A. Josey for the term of said lease.

Dated this 30th day of June, 1914.

GEM OIL COMPANY,

By R. A. Josey, President.

Attest: F. B. Long, Secretary. (Corp. Seal)

State of Oklahoma, County of Tulsa, ss.

Before me the undersigned, a notary public, in and for said county and state, on this 30th day of June, 1914, personally appeared R. A. Josey, to me known to be the identical person who executed the within and foregoing instrument, as president of the maker thereof and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed and as the free and voluntary act and deed of such company for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written. A. A. Eberly, Notary Public.

My commission expires June 15, 1918. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 6 day of July, A. D. 1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 75. Huber Hughes, Register of Deeds.

Government's Exhibit A-63.

Gov. Ex. 7.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Deed from Minnie E. Folk to Charles Page as the same appears on the records of this office. Filed 30 day of Oct., 1914, at 8 o'clock A. M., and recorded in volume 107 at page 28.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13392

DEED.

This Indenture made this 22nd day of October, 1914, by and between Minnie E. Folk (formerly Minnie Atkins), of Seattle, Washington, of the first part, and Charles Page, of Tulsa, Oklahoma, of the second part, Witnesseth:

That the said party of the first part in consideration of the sum of One Dollar ($1.00) the receipt of which is hereby acknowledged, and the considerations hereinafter set forth, does by these presents grant, bargain, sell and convey unto the party of the second part, his heirs and assigns, all of the oil, gas, coal, and other minerals lying in, and under the following described real estate situated in the County of Creek, and State of Oklahoma, to-wit:

Southwest quarter (SW4) of the Northwest quarter (NW4) of Section Four (4) and the Southwest quarter (SW4) of the Northeast quarter (NE4) of Section Five (5) and Lot Two (2) of Section Five (5) and Lot Four (4) of Section Four (4) all in township eighteen (18) north, range seven (7) East, containing one hundred and sixty-two (162) acres, more or less.

It being the intent of this conveyance that the surface of the lands above described shall be and remain in the first party subject to this conveyance, and a certain leasehold estate now in Charles Page and R. A. Josey and that there shall be hereby conveyed unto the second party the one-eighth (1/8) interest in the oil and gas remaining in first party under the

terms of said leasehold estate in the said Page and Josey and also any other interests in said oil and gas that the said party of the first part may have together with all her right, title and interest in and to the coal and other minerals lying in and under said tract.

To Have and To Hold the above described estate, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, forever.

And the said Minnie E. Folk, for herself, her heirs, successors and administrators, does hereby covenant and promise and agree to and with the said party of the second part, that at the delivery of these presents she is lawfully seized in her own right on an absolute and indefeasable estate of inheritance in fee simple, of, in and to all and singular the above granted and described premises, with the appurtenances, and that she has good right to convey the estate above described, and that the same is free, clear, discharged and unincumbered of and from all former grants, titles, charges, judgments, taxes, assessments and encumbrances of what nature and kind soever, except the oil and gas leasehold estate in the said Charles Page and R. A. Josey, said estate being evident by instruments now of record in the office of the register of deeds of Creek County, Oklahoma, and that she will warrant and forever defend the title to the oil and gas, coal and other minerals as above described, unto the said party of the second part, his heirs and assigns, against the party of the first part, her heirs, and all and every person whomsoever lawfully claiming or to claim the same.

As to the balance of the consideration to be paid by second party to first party for said estate, it is understood:

First: That the rights of the first party in and to the lands and the estate above described while in the opinion of the parties hereto are not subject to successful attack, yet the said title is in litigation and in danger of litigation.

Second: That the first party hereto has not been so situated in life that money in large sums has been invested, saved or handled in a business like manner by her, and it is her desire that such money as may be secured by her for the above described estate shall be secured to her for her maintenance during the remaining lears of her life.

Third: That said lands while in a productive oil field are not producing oil in paying quantities and no well thereon has been drilled to the known paying *said* in said field,

and the value of the above described estate is speculative and the assurance of an income therefrom is of value to the first party.

Now, Therefore, as a further consideration for said estate, second party agrees and binds himself, his heirs and assigns to pay unto the first party during her lifetime the following sums, to-wit:

(a) On the first day of each and every month, commencing the first day of October, 1914, the sum of Twenty-five Dollars ($25.00) the receipt of which is hereby acknowledged, and the further sum of Twenty-five (25.00) Dollars on the first day of each succeeding month, until the right of the first party in and to the premises above described shall be finally adjudicated as against the claims of Nancy Atkins, and those claiming under her. It is understood that the sum to be paid as aforesaid, shall not in any event exceed the total sum of Ten Thousand Dollars ($10,000), and the payments thereon made withheld in the event of the *ascertion* of claim, or claims by Thomas Atkins, or other persons, as hereinafter set forth.

In the event the claim or claims of the said Nancy Atkins, and those claiming under her, shall be maintained as against the first party, then the payments thereunder shall cease, but if the title of the first party shall be maintained as against the said Nancy Atkins, and those claiming under her, then.

(b) On the first day of the next month succeeding the final adjudication of the rights to said estate as between first party and the said Nancy Atkins, and those claiming under her, the second party shall pay unto the first party the sum of Two Hundred Dollars ($200.00) and on the first day of each succeeding month thereafter shall pay the sum of Two Hundred Dollars ($200.00) for a period of five (5) years from date hereof, and on the first day of *ten* next month succeeding the termination of the said five (5) years the second party shall pay unto the first party the sum of One Hundred Dollars ($100.00) and on the first day of each succeeding month thereafter shall pay the sum of One Hundred Dollars ($100.00) until the death of the said first party, upon the happening of which event the payments hereunder shall cease and the consideration for the estate above described shall be deemed fully paid and all obligations of the second party consummated.

And it is further provided, and the foregoing provisions for payments are subject thereto, that in the event the said first party shall die before the total amount of the payments hereunder shall equal the sum of Ten Thousand Dollars ($10,-

000.00) then in that event there shall be due from second party to the estate of first party a sum equal to the difference between the amount paid hereunder and the total sum of Ten Thousand Dollars ($10,000.00) if any such difference exists. In the event there shall at the time of the death of the first party, exist any unpaid difference as between the payments made hereunder and the said principal sum of Ten Thousand Dollars ($10,000.00) the second party shall pay to the heirs or devisee of first party, the sum of One Hundred Dollars ($100.00) per month on the first day of each month until the total amounts paid shall equal the said sum of Ten Thousand Dollars ($10,000.00).

It is understood that the heirs and devisees of the first party shall make a satisfactory showing of their rights hereunder, and that all payments made to such heirs and devisee after a reasonable showing of their right thereto, shall release second party from any obligation to reimburse the true heirs or devisees if it shall be determined that a wrongful or improper payment has been made.

It is further provided that this instrument is subject to the following conditions, namely.

First: That in the event Thomas Atkins, the son of the first party and the person described in the allotment of said lands, or the rightful heirs of the said Thomas Atkins, shall successfully maintain a title to said lands, and the estate above described, as against the first party, the payments hereunder to first party shall cease and second party shall be released from all liability hereunder, except that upon the confirmation of this conveyance and a release for payments theretofore made, the said payments shall be due and payable to the said Thomas Atkins, or his heirs during the lifetime of the said first party, and on her death the unpaid difference between the amount paid up to the time of the death of first party and the said Ten Thousand Dollars ($10,000.00) if any ascertained as aforesaid, shall be payable to the said Thomas Atkins, or his heirs.

Second: That in the event it shall be finally determined by any proceeding whatsoever by whomsoever brought, that first party is for any reason unable to convey the estate herein granted and said estate shall fail, second party shall forthwith be relieved from all liability hereunder.

Third: That upon the commencement of any suit, or suits, by the United States, the Creek Nation, or Thomas Atkins, or persons claiming under him, or by any other persons, or persons presenting a prima facie case, all payments here-

in provided for and then remaining unpaid, shall be withheld by second parties until the final termination of said litigation, and then paid pursuant to the final judgment in said cause, or causes, and this instrument.

Payments hereunder shall be made by depositing to the credit of first party the sums due in the National Bank of Commerce *Bank* at Seattle Washington, or with the successor of said bank.

This instrument is full authority to all purchasers of oil, gas, coal and other material produced on said premises to pay the proceeds thereof to the order of the second party and no liability of any kind whatsoever is on the purchaser of said oil, gas, coal, and other mineral for payment made therefor, it being specifically understood that the transfer of the estate herein described is complete at the date hereof.

In Witness Whereof, the parties hereto have hereunto set their hands the day and year first above written.

Minnie E. Folk, First Party,
Charles Page, Second Party.

State of Oklahoma, County of Tulsa, ss.

Before me, the undersigned a notary public, in and for said county and state, on this 22nd day of October, 1914, personally appeared Minnie E. Folk (formerly Minnie Atkins) and Charles Page, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. E. F. Gester, Notary Public.

My commission expires September 16th, 1915. (Seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 30th day of October, 1914, at 8 o'clock A. M. and duly recorded in Book 107 at page 28. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-64.

Gov. Ex. 8.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Conveyances between Finnie Fold and Edward C. Han-

ford, as the same appears on the record of this office. Filed 7th day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 102 at page 336.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) GUS L. COREY, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13501

CONVEYANCE.

The Indenture made this 30th day of October, 1914, between Minnie Folk (nee Atkins) of Seattle, Washington, party of the first part, and Edward C. Hanford, party of the second part.

Witnesseth: The said party of the first part, for and in consideration of the sum of One Dollar, and other valuable consideration, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey unto the said party of the second part, his heirs, executors, administrators and assigns a full ten per cent of one-eighth (10/100 of 1/8) interest in and to all oil and gas lying in and under all of the following *descibed* real estate, situated in the county of Creek, State of Oklahoma, viz:

The southwest quarter (SW4) of the northwest quarter (NW4) of Section Four (4), Township eighteen (18) North Range Seven (7) East; Southwest Quarter (SW4) of the Northeast quarter (NE4) and Lot Two (2) Section Five (5) Township Eighteen (18) North, Range Seven (7) East, and Lot Four (4), Section Four (4), Township Eighteen (18) North, Range Seven (7) East, containing in all 161.01 acres, more or less.

To Have and Hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining forever.

And the said Minnie Folk for herself, and for her heirs, executors, administrators and assigns, does hereby covenant, promise and agree to and with said party of the second part, that at the delivery of these presents she was lawfully seized in her own right of an absolute and indefeasible estate of inheritance in fee simple, of, in and to all and singular the above granted and described premises with the *appurtances;* that the same are free, clear, discharged and unincumbered of

and from all former grants, titles, charges, judgments, taxes, assessments and incumberances of what nature and kind soever; except that certain oil and gas lease given to Gem Oil Company and dated the 24th day of June, 1914, and that she will WARRANT and forever DEFEND the title to the same unto the party of the second part, his heirs, executors and assigns against said party of the first part, their heirs and all and every person whomsoever, lawfully claiming or to claim the same.

In Witness Whereof, the said party of the first part has hereunto set her hand and seal the day and year above written.

Minnie Folk (Seal)
Harry B. Folk (Seal)

Witnesses: John P. Garvin.

State of Washington, County of King, ss.

This is to certify that before me, John P. Garvin, a notary public in and for the said county and state, on this 31st day of October, 1914, personally appeared Minnie Folk and Harry B. Folk, her husband, J.P.G. to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as *J.P.G. J.P.G.* and for their free and voluntary act and deed for the uses and purposes therein set forth.

(Seal) John P. Garvin,
Notary Public in and for the State of Washington residing at Seattle.

My commission expires June 29, 1917.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 7th day of November, A. D. 1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 336. Huber Hughes, Recorded of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-65.

Gov. Ex. 9.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Bargain and Sale Deed given by Alexander J. MacNab, Jr., Trustee, to Minnie Folk, as the same appears on the records of this office. Filed 10 day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 102 at page 347.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal)

Gus L. Corey, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13537

BARGAIN AND SALE DEED.

The grantor, Alexander J. MacNab, Jr., trustee of .... in the county ..... and state of ..... for and in consideration of ten and oo/100 dollars, in hand paid, bargain, sell, and convey to Minnie Folk of Seattle in the county of King and State of Washington all right title and interest in and to the following described real estate.

The southwest quarter (SW4) of the northwest quarter (NW4) of Section four (4), and Lot Four (4) of Section four (4), also the southwest (SW4) of the Northeast quarter (NE4) of Section Five (5), and Lot two (2) of Section five, all in Township Eighteen (18) North, Range seven (7) east, I. B. M. situated in Creek county, State of Oklahoma, and being the allotment of Thomas Atkins, situated in the county of ....., State of *Washington.*

Dated this 18th day of July, 1914.

Witness: C. H. Hanford. Alexander J. MacNab, Jr. (Seal)

State of Washington, County of King, ss.

This is to certify that on this 18th day of July, A. D. 1914, before me, B. Roy Anderson, a Notary Public, in and for the State of Washington, duly commissioned and sworn, personally came, Alexander J. MacNab, Jr., Trustee, to me known to be the identical person described in and who executed the within instrument, and acknowledged to me that he signed and sealed the same as and for his free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

(Seal)

B. Roy Anderson,
Notary Public in and for the State of Washington residing at Seattle.

My commission expires May 10th, 1916. (In seal)

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 10 day of Nov., A. D.

1914, at 8 o'clock A. M. and duly recorded in Book 102 at page 347. Huber Huges, Recorder of Deeds.

Government's Exhibit A-66.

Gov. Ex. 10.—2131 Eq.—2-24-15.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Thomas Atkins and Gem Oil Co. as the same appears on the records of this office. Filed 19 day of Nov., 1914, at 8 o'clock A. M., and recorded in volume 107 at page 125.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 24 day of Feb., 1915.

(Seal) Gus L. Corey, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa. (10c revenue stamp.)

13696

OIL AND GAS LEASE.

This Agreement, made and entered into this 13 day of November, 1914, by and between Thomas Atkins, known as Henry Carter of Leavenworth, State of Kansas, Lessor, and Gem Oil Company, a corporation of Tulsa, State of Oklahoma, Lessee:

Witnesseth: That the lessor in consideration of the sum of One and No/100 Dollars ($1.00) to her in hand, well and truly paid by the lessee receipt of which *us* hereby acknowledged, do*ed* hereby grant, demise, lease and let unto the lessee its successors, heirs or assigns, all of the oil and gas in and under the following described tract of land and also the said tract of land for the purpose and with the exclusive right of entering upon and operating thereon and removing therefrom said oil and gas and of laying pipe lines, building tanks, powers, stations, and structures thereon for producing, extracting, storing and disposing of said products, and with the right to use oil, gas, and water therefrom, and all rights, and privileges necessary or convenient for such operations; also the right to remove, at any time, all property, pipes, casing, materials, buildings and improvements placed or erected in or upon said land by the lessee, said land being all of that

certain tract of land situate in Creek county, State of Oklahoma, described as follows, to-wit:

The southwest one-quarter of the Northwest one-quarter of Section Four (4) and the Southwest one-quarter of the Northeast *one* one-quarter of section five (5), and Lot numbered two (2) of Section five (5), surplus allotment, comprising 120.85 acres, and lot numbered four (4) of section four (4), homestead allotment, comprising 41.16 acres, all in township eighteen (18) North, range seven (7) East, being the allotment in the Creek Nation of Thomas Atkins, Creek Roll Number 7913, containing 162.01 acres, more or less.

To Have and To Hold the *said* for and during the term of five years from the date hereof and as much longer thereafter as oil or gas is found therein, or said premises developed or operated.

The lessee agrees to deliver to the credit of the lessor free of cost in the pipe line to which it may connect its wells the equal one-eighth (⅛) part of all crude oil produced and saved from said above described land.

If gas be found in paying quantities the lessee agrees to pay to the lessor two hundred and fifty and no/100 dollars each year in advance for the product of each well from which gas only is produced, while the same is being sold off the said land.

The lessor to have free of cost, sufficient gas from any wells drilled on said land to light and heat one dwelling house upon said land, the same to be taken at the mouth of the well at the lessor's risk and to be used economically.

The lessee agrees to pay lessor for gas produced from any oil well and used off the premises at the rate of Fifty Dollars per year, for the time during which such gas shall be used, said payments to be made each three months in advance.

The lessee agrees to bury all pipe lines in cultivated fields, below the depth of plow, whenever requested to do so by the lessor, and also to pay the lessor for all damage done to growing crops while drilling.

No well shall be drilled nearer than 200 feet to any building now on said premises without the consent of the lessor.

If a well is not commenced on said premises within one year from the date hereof, this lease shall become null and void, unless the lessee shall pay or tender to the lessor a rental of One Dollar per acre in advance for each additional

one year such commencement is delayed from the time above mentioned for the commencement of such well until a well is commenced on said land. It is expressly agreed that the right to so extent and continue this lease is fully paid for by the consideration above mentioned, and that said payment or tender when made shall fully and completely extend this lease from time to time until a well is commenced, the drilling of a producing well on said premises shall operate as a full liquidation of all rentals due or payable under this provision during the remainder of the term of this lease.

The completion of drilling operations which result in a dry hole, or a well not producing oil or gas in paying quantities shall be in lieu of all rentals accruing from and after the date of the commencement of said operation, for a period expiring one year after the termination of said operation, and this lease shall be in full force and effect for said time as fully as if said rentals had been paid or a producing well completed.

All payments of money under this lease may be made or tendered by valid check direct to the lessor or by registered letter addressed to the lessor at Leavenworth, Kansas, or deposited to his credit in the ..... bank ..... of .....—or its successors or assigns.

The lessee shall have the privilege of paying off or assuming any or all mortgages, taxes, or other encumbrances against the leased premises, and, upon so doing will be subrogated to the rights of the holder thereof.

The lessee shall not be bound by any change in the ownership of said land until the presentation of abstract satisfactory showing same.

The benefit of all homestead and exemption laws of the State of Oklahoma are hereby expressly waived.

All the terms and conditions herein shall extend and apply to the respective heirs, executors, administrators and assigns, of the parties hereto.

It is agreed that this lease shall be in force and effect and that the second party is not bound to conduct drilling operations until title is perfected of record in first party.

This lease is executed subject to contract this date executed by the parties hereto.

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

Thomas Atkins, Known as Henry Carter.

State of Kansas, County of Leavenworth—ss.

On this 13 day of November, A. D. 1914, before me, the undersigned, a notary public in and for the county and state aforesaid, personally appeared Thomas Atkins, known as Henry Carter, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

(Seal) Dennis Jones,

My commission expires March 28th, 1915. Notary Public.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 19 day of Nov., 1914, at 8 o'clock A. M and duly recorded in Book 107 at page 125. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-67.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Harvey Harrison to H. E. Whitehead, as the same appears on the records of this office. Filed 22 day of June, 1914, at 3:20 o'clock P. M., and recorded in volume 62 at page 252.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

11346

QUIT CLAIM DEED.

Know All Men by These Presents, that Harvey Harrison party of the first part, in consideration of the sum of one dollar in hand paid, the receipt of which is hereby acknowledged, and other good and valuable considerations, does hereby quit claim, grant, bargain, sell and convey unto H. E. Whitehead, all my right, title, interest and claim in *and claim in* and to

the following described real property and premises situate in Creek County, State of Oklahoma, to-wit:

The west half of the Northwest quarter of Section Four (4) and the West half of the Northeast quarter of Section Five (5) all in Township Eighteen (18) North, Range Seven (7) East, being the allotment of Thomas Atkins, deceased.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold Said described premises unto the said party of the second part, his heirs and assigns, forever.

Signed and delivered this 20 day of June 1914.

Harvey Harrison.

Signed in the presence of .....

State of Oklahoma, Creek County, ss.

Before me, the undersigned, a notary public in and for said county and state, on this 20 day of June, 1914, personally appeared Harvey Harrison to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my official hand and seal, the day and date above written.

(Seal) Harrison Arnold,

My commission expires July 30, 1915. Notary Public.

Filed for record at office of Register of Deeds, Creek County, Oklahoma, 22 June, 1914, at 3:20 o'clock P. M. Recorded in Book 62 at page 252. Huber Hughes, Register of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-68.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed from Harvey Harrison to Minnie Folk, as the same appears on the records of this office. Filed 1st day of July, 1914, at 2 o'clock P. M., and recorded in volume 57 at page 580

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

11548

QUIT CLAIM DEED.

Know All Men by These Presents:

That Harvey Harrison, Coweta of the County of Wagoner, State of Oklahoma, party of the first part, in consideration of the sum of Fifty & Natural love and affection Dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and quit claim unto my mother Minnie Folk, formerly Minnie Atkins, party of the second part, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

The SW4 of the NW4 of Sec. 4, and SW4 of the NE4 of Sec. 5, and lot Numbered 2 of Sec. 5, and Lot Numbered 4, of Sec. 4, all in Township Eighteen (18) North, Range Seven (7) East comprising 162.01 acres, more or less.

together with all the improvements thereon and appurtenances thereunto belonging.

Signed and delivered this 29 day of June, 1914,

Signed in the Presence of

A. B. Long, Harvey Harrison.

E. C. Hanford.

State of Oklahoma, Muskogee County, ss.

Before me the undersigned, a notary public, in and for said county and state, on this 29th day of June, 1914, personally appeared Harvey Harrison to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above set forth.

(Seal) F. H. Walkup,

My commission expires May 13, 1917. Notary Public.

Filed for record at office of Register of Deeds, Creek County, Oklahoma, July 1, 1914, at 2 o'clock P. M. Recorded

in Book 57 at page 580. Huber Hughes, Register of Deeds; By C. K. Maddox.

Government's Exhibit A-69.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil and Gas Lease from Chas. Harrison to Chas. M. Ball, as the same appears on the records in this office. Filed 6 day of Nov., 1913, at 8 o'clock A. M., and recorded in volume 92 at page 629.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

6454

OIL AND GAS LEASE.

This Agreement, made this 4th day of November, A. D. 1913, between Charles Harrison, Roll No. 5338, a single man, son and heir at law of Minnie Harrison, nee Atkins, deceased, of Wagoner County, of ..... and State of Oklahoma, lessor, and Charles M. Ball of Coffeyville, State of Kansas, lessee.

Witnesseth: That the lessor in consideration of One ($1.00) Dollar the receipt of which is hereby acknowledged, and of other valuable considerations does hereby demise and grant unto the lessee all the oil and gas in and under the following described tract of land for the purpose and with the exclusive right of operating thereon, for oil and gas together with the right of way, right to lay pipe lines over and shall have the right at any time all property placed thereon by the lessee. The first party grant the right to the second party to market all oil saved from said premises, through any pipe line or other conveyance that may be in use by the party of the second part. Said tract of land is situated in the County of Creek, and State of Oklahoma, and described as follows:

The undivided one-half (½) interest in the West ½ of NE¼ Section 5, Twp. 18 North, Range 7 East, West ½ of NW¼ Section 4, Township 18 North, Range 7 East, consisting of 160 acres, more or less.

To have and to hold the same unto the lessee, for a term and period of five (5) years from the date hereof and as much longer as oil or gas are found in paying quantities thereon.

The lessee paying to the lessor as royalty:

1. The proportionate part of 1/8 of the oil as his interest may appear produced and saved from the premises, delivered free of expense into tanks or pipe lines to the lessor credit.

2. (a) Should gas be found in paying quantities to pay the lessor his proportionate part of the sum of Three Hundred Dollars per year for each well from which gas is being sold or utilized off of the premises.

(b) And allow the lessor the free use of gas for domestic purposes, piped at his own risk and expense. The lessee Agree;

1. To drill no wells within 200 feet of any building now on said premises.

2. To pay all unnecessary damage to fences or growing crops.

It Is Mutually Agreed:

1. (a) Second party agrees to commence well on the above described premises within one year from the date hereof, and in case of failure to do so this lease shall become null and void and without further effect whatever, unless the lessee shall pay for the delay at the rate of Eighty ($80.00) Dollars, or his proportionate part of $160.00 per year thereafter until a well shall have been commenced.

(b) Such payment shall be made to the lessor, his credit in Citizens State Bank, at Wagoner, Oklahoma.

2. That lessee shall have the right at any time to terminate this lease by the payment of one dollar and by surrendering this lease, and shall thereafter be released from all obligations and liabilities under same.

This contract shall extend to and be binding upon the heirs, assigns, successors and personal representatives of the Lessor, and Lessee herein.

Signed and witnessed the day and year first above written.

his
Charles X Harrison (Seal)
mark

Witness:
R. K. Long, C. H. Weldon.

State of Oklahoma, Wagoner County—ss.

Before me, a notary public, in and for said county and state, on this 4th day of November, 1913, personally appeared Charles Harrison, and ..... to me known to be the identical person described in who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth (and the said Charles Harrison, having executed same by his mark in my presence and in the presence of R. K. Long and C. H. Weldon, as witnesses).

Witness my hand and seal the day and year above set forth.

(Seal) Gertrude E. Scammon.

My commission expires March 1st, 1915.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 6th day of Nov., A. D. 1913, at 8 o'clock A. M., and duly recorded in Book 92 at page 629. Huber Hughes, Recorder of Deeds; By C. K. Maddox, deputy.

Government's Exhibit A-70.

CERTIFICATE OF TRUE COPY

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease A J Burchett Thomas Gilcrease et al as the same appears on the records of this office. Filed 17 day of Feby., 1917, at 10:30 o'clock A. M., and recorded in volume 98 at page 322.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

8467.

OIL AND GAS MINING LEASE BY GUARDIAN, UNDER ORDER OF COURT.

Know All Men by These Presents:

That heretofore, on the 16 day of February, 1914, A. J. Burchett, as the guardian of the estate of Harvey Harrison,

a minor, filed in the County Court, of Tulsa County, State of Oklahoma, his petition for leave to lease for oil and gas purposes, the land hereinafter described belonging to his said ward, and,

Whereas, the said County Court, did on the 16 day of February, 1914, make an order of sale, directing the said guardian, A. J. Burchett, to sell at private sale, to the highest and best bidder, an oil and gas lease on the said land of his said ward, for a period of five years and as much longer thereafter as oil or gas is found in paying quantities, and

Whereas, the said guardian sold said oil and gas lease to Thomas Gilcrease and Robert Wilson on the 16th day of February, 1914, as shown by his report of said sale to said court, and

Whereas, the said County Court, did, on the 16 day of February, 1914, make an order confirming and approving said sale and ordering and directing the said guardian to execute a lease to the said purchasers, Thomas Gilcrease and Robert Wilson, a copy of which order was duly recorded in the office of the Register of Deeds of Creek County, on the 16 day of February, 1914, at page ..... of Vol ..... of ..... records in said office.

Therefore, This Agreement, made and entered into in duplicate, the 16th day of February, 1914, by and between A. J. Burchett, as guardian of the estate of Harvey Harrison, a minor, of Tulsa County, Oklahoma, party of the first part, lessor, and Thomas Gilcrease and Robert Wilson, parties of the second part, lessees.

Witnesseth: That the said party of the first part, for and in consideration of the sum of Seven Hundred ($700.00) Dollars to him in hand well and truly paid by the said parties of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the parties of the second part to be paid, kept and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let unto the said second party, its successors and assigns for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines and of building tanks, powers, stations and structures thereon to produce and take care of said products, for a term of five years and as much longer thereafter as oil or gas is found in paying quantities, all that certain tract of land situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

An undivided one-half interest in and to the West half of the Northwest quarter of Section Four (4) and the West half of the Northeast quarter of Section Five (5) all in Township Eighteen (18) North, Range Seven (7) East, the same being the allotment of Thomas Atkins, now deceased, and containing 160 acres, more or less.

In consideration of the premises the said party of the second part covenants and agrees:

1st. To deliver to the credit of the first party his successors or assigns, free of cost, in the pipe line to which it may connect its wells, the equal one-eighth (⅛) part of all oil produced and saved from the leased premises.

2nd. To pay to first party One Hundred Fifty Dollars each year in advance for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for his stoves and his inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay to the first party for gas produced from any oil well and used off the premises at the rate of One Hundred Fifty ($150.00) Dollars per year, for the time during which such gas shall be so used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within 12 months from the date hereof or pay at the rate of one hundred sixty ($160.00) Dollars in advance for each additional 12 months such completion is delayed from the time above mentioned for the completion of such well until a well is completed; and it is agreed that the completion of such well shall be and operate as a full liquidation of all rent under this provision during the remainder of the term of this lease.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any change, either by notice in writing duly signed by the parties to the instrument of conveyance, or by the receipt of the original instrument of conveyance, or a duly certified copy thereof.

The party of the second part shall have the right to use, free of cost, gas, oil and water produced on said land for its operations thereon except water from wells of first party.

When requested by first party, the second party shall bury its pipe lines below plow depth.

No well shall be drilled nearer than 200 feet to the house or barn on said premises.

Second party shall pay for damages caused by it, to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

All payments which may fall due under this lease may be made directly to the lessor, or deposited to his credit in American National Bank at Tulsa, Oklahoma.

All covenants and agreements herein set forth between the parties hereto shall extend to their successors or assigns.

Witness the following signatures the day and year first above written.

Harvey Harrison,
By A. J. Burchett,
Guardian of the Estate of Harvey Harrison, a minor.

Witnesses:

The above and foregoing lease is this 14 day of February, 1914, by the court examined and approved concurrently with the order of confirmation thereof.

(C. C. Seal)

Conn Linn,
Judge of the County Court of Tulsa County, State of Oklahoma.

State of Oklahoma, Tulsa County, ss.

On this 16 day of February, 1914, before me, the undersigned, a notary public, within and for the county and state aforesaid, personally appeared A. J. Burchett, guardian of the estate of Harvey Harrison, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal as such notary public, this the day and date last above written.

(Seal)

Gayle Pettus,
Notary Public.

My commission expires Apr. 1, 1915.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 17 day of Feb., A. D. 1914, at 10:30 o'clock A. M., and duly recorded in book

98 at page 322. Huber Hughes, Recorder of Deeds; By C. K. Maddox, Deputy.

Government's Exhibit A-71.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Oil & Gas Lease between Harvey Harrison and S. D. Shirk, as the same appears on the records of this office. Filed 24 day of Feb., 1914, at 8:20 o'clock A. M., and recorded in volume 90 at page 284.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk.

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

8610

OIL AND GAS LEASE

From Harvey Harrison to S. D. Shirk.

State of Oklahoma, Creek County, ss. This instrument was filed in my office on the 24 day of Feb., A. D. 1914, at 8:20 o'clock A. M. and duly recorded in Book 90 on page 284. Huber Hughes, Register of Deeds; By ....., Deputy.

Agreement, Made and entered into the 21 day of Feb., A. D. 1914, by and between Harvey Harrison of Tulsa, party of the first part, lessors, and S. D. Shirk, party of the second part, lessees.

Witnesseth, that the said party of the first part, for and in consideration of the sum of One dollar to me in hand well and truly paid by the said party of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the party of the second part, to be paid, kept and performed has granted, demised, leased and let and by these presents does grant demise lease and let unto the said second party his heirs, executors, administrators, successors or assigns, for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines, and of building tanks, powers, stations and structures thereon to produce and take care of

said products, all that certain tract of land situate in the county of Creek, state of Okla., described as follows, to-wit:

The undivided one-half interest of S.W. (¼) quarter of N.E. quarter ¼ and lot two (2) of Sec (5) Five Township (18) Eighteen Range (7) Seven and S.W. ¼ of N. W. quarter and lot (4) Four Sec (4) Four Township Eighteen (18) Range Seven (7)

of Section .... Township .... Range .... and containing One Hundred and sixty acres more or less.

It is agreed that this lease shall remain in force for a term of Five years from this date and as long thereafter as oil or gas or either of them is produced from said land by the party of the second part his heirs, administrators, executors, successors or assigns.

In consideration of the premises the said party of the second part covenants and agrees:

1st. To deliver to the credit of the first party his heirs or assigns, free of cost, in the pipe line to which it may connect its wells, the equal one-eighth part of all oil produced and saved from the leased premises.

2nd. To pay the first *part* one hundred and fifty dollars each year in advance, for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for his stoves and his inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay the first *part* for gas produced from any oil well and used off the premises at the rate of Fifty Dollars per year, for the time during which such gas shall be used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within one year from the date hereof, or pay at the rate of one hundred and sixty Dollars for each additional Twelve months such completion is delayed from the time above mentioned for the full completion of such well until a well is completed; and it is agreed that the completion of such well shall be and operate as a full liquidation of all rent under this provision during the remainder of the term of this lease.

The party of the second part shall have the right to use free of cost*s* gas, oil and water produced on said land for its operations thereon, except water from wells of first party.

When requested by first party, the second party shall bury its pipe lines below plow depth.

No well shall be drilled nearer than 150 feet to the house or barn on said premises.

Second party shall pay for damages caused by them to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any such change, either by notice in writing duly signed by the parties to the instrument of conveyance, or by receipt of the original instrument of conveyance, or a duly certified copy thereof.

All payments which may fall due under this lease may be made directly to Harvey Harrison or deposited by second *part* to his credit in the Exchange Nat Bank of Tulsa, Okla.

The party of the second part, its successors or assigns shall have the right at any time, on the payment of one dollars to the party of the first part, his heirs or assigns to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its terms shall cease and determine provided, this surrender clause and the option therein reserved to the lessee shall cease and become absolutely inoperative immediately and currently with the institution of any suit in any court of law or equity by the lessee to enforce this lease or any of its terms or to recover possession of the leased land, or any part thereof, against or from the lessor his heirs, executors, administrators, successors or assigns, or any other person or persons. All covenants and agreements herein set forth between the parties hereto shall extend to their successors, heirs, executors, administrators and assigns.

Harry Harrison. (Seal)

Witness the following signatures and seals:

C. E. Tunnbo.

ACKNOWLEDGMENT TO THE LEASE.

State of Oklahoma, County of Muskogee, ss.

Be It Remembered, That on this 21, day of Feb., in the year of our Lord one thousand nine hundred and Fourteen, before me, a Notary Public in and for said County and State personally appeared Harvey Harrison and to me known to

be the identical person who executed the within and foregoing instrument and acknowledged to me that ..... executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In Witness Whereof, I have hereunto set my official signature and affixed my notarial seal the day and year first above written.

(Seal) W. L. Hughes,
My commission expires July 24, 1915. Notary Public.

Government's Exhibit A-72.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Warranty Deed from Thomas Harris et ux Rufus B. Cobb et al. as the same appears on the records of this office. Filed 26 day of Nov., 1913, at 8 o'clock A. M., and recorded in volume 94 at page 181.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk.
By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

WARRANTY DEED.

6829

Know All Men by These Presents:

That Thomas Harris and Kahookah Harris, his wife, parties of the first part in consideration of the sum of One Dollars ($1.00) and other valuable considerations, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto Rufus B. Cobb, George C. Conrad, John R. Fields and James M. Brogan, all of Muskogee, Oklahoma, parties of the second part, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

All my right, title and interest derived by inheritance from my deceased son, Thomas Atkins in the part of his allotment as a citizen of the Creek Nation, described as follows, The Southwest quarter (¼) of the Northeast quarter (¼) and Lot Two ("2) of section Five (5) and

the Southwest quarter (¼) of the Northwest quarter (¼) and Lot Four (4) of Section Four (4) in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty and 1/100 acres, more or less according to the Government survey thereof.

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

To Have and To Hold said described premises unto the said parties of the second part, their heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and incumbrances of whatsoever nature.

Signed and delivered this 22nd day of November, 1913.

Thomas Harris

Thomas Harris (Seal)

Kahookah her mark Harris (Seal)

Witness to Mark of Kahookah Harris:
J. W. *Hartin* Fannie *Mulley*

ACKNOWLEDGMENT.

State of Oklahoma, Muskogee, County, ss.

Before me, a Notary Public in and for said County and State, on this 22nd day of November, 1913, personally appeared Thomas Harris to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that *she* executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness My Hand and Seal as such Notary Public on the day last above mentioned. (Seal) Thomas A. Scott,

My commission expires May 31, 1915. Notary Public.

State of Oklahoma, Muskogee County, ss.

Before me, a notary public in and for said county and state on this 24 day of November, 1913, personally appeared Kahookah Harris to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and seal as such Notary Public on the day last above written.

(Seal) J. W. Hartin,

My commission expires February 28th, 1914. Notary Public.

State of Oklahoma, County of Creek. This instrument was filed in my office for record on the 26 day of November, A. D. 1913, at 8 o'clock A. M. and duly recorded in book 94 at page 181. Huber Hughes, Recorder of Deeds.

Government's Exhibit A-73.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Warranty Deed from Thomas Atkins to W. P. Root, as the same appears on the records in this office. Filed 17 day of Aug., 1914, at 9 o'clock A. M., and recorded in volume 100 at page 186.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) GUS L. COREY, County Clerk,

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

12341

WARRANTY DEED.

State of Oklahoma, County of Creek, ss.

Know All Men by These Presents: That Thomas Atkins (a single person) and ½ blood Creek Indian, Creek Indian Roll No. 7913 and formerly known as Martin Rowe, party of the first part, in consideration of the sum of Sixteen thousand Dollars in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto W. P. Root of Sapulpa, Oklahoma, the following described real property and premises, situate in Creek County, State of Oklahoma, to-wit:

> The Southwest quarter (¼) of the Northwest quarter (¼) of Section Four (4) and the Southwest quarter (¼) of the Northeast quarter (4) and Lot Two (2) of Section Five (5) all in Township Eighteen (18) North, and Range Seven (7) East, containing 120.85 acres according to the United States survey thereof and being the Surplus allotment of said Thomas Atkins.

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same to said W. P. Root,

To Have and To Hold said described premises unto the said party of the second part, his heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and incumbrances of whatsoever nature;

Signed and delivered this 17th day of August, 1914.

Thomas Atkins.

Signed and delivered in the presence of

L. V. Hopkins

J. C. W. Bland

State of Oklahoma, Creek County, ss.

Before me, the undersigned, a notary public in and for said county and state, on this 17th day of August, 1914, personally appeared Thomas Atkins (formerly known as Martin Rowe) to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal, the day and date above written. W. H. O'dell, Notary Public.

My commission expires Mar. 6, 1918. (Seal)

State of Oklahoma, Creek County, ss: This instrument was filed for record on the 17 day of Aug., A. D. 1914, at 9 o'clock A. M., and duly recorded in Book 100 on page 186. Huber Hughes, Register of Deeds; By C. K. Maddox, deputy.

Government's Exhibit A-74.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Real Estate Mortgage from W. P. Root to Thomas Atkins et al., as the same appears on the records of this office. Filed 17 day of Aug., 1914, at 9:30 o'clock A. M., and recorded in volume 72 at page 369.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk,

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

Receipt No. 489. Recording tax paid $16.00 This 17 day of Aug., 1914. J. E. Bruin, County Treasurer, Creek Co. By E. R. Pickett, Deputy.

12342

REAL ESTATE MORTGAGE — with insurance clause

This Indenture, Made this 17th day of August, in the year of our Lord, One Thousand Nine Hundred and Fourteen, between W. P. Root, of Sapulpa, Oklahoma, of the County of Creek, State of Oklahoma, party of the first part and Thomas Atkins (formerly known as Martin Rowe, and Grant Hamlin, both of Muskogee, Okla., parties of the second part: .

Witnesseth: That the said party of the first part, for and in consideration of the sum of Eight Thousand ($8000.00) Dollars in hand paid by said parties of the second part, receipt whereof is hereby acknowledged, have sold, and by these presents do grant, sell, convey and confirm, unto the said parties of the second part, and to their heirs and assigns, forever, all of the following described real estate lying and situate in the county of Creek and State of Oklahoma, to-wit:

The Southwest quarter (¼) of the Northwest quarter (¼) of Section Four (4) and the Southwest quarter of the Northeast quarter (¼) and lot two (2) of Section Five (5) all in Township Eighteen (18) north, and Range Seven (7) East containing 120.85 acres according tc the United States Survey thereof, and being the Surplus allotment of said Thomas Atkins.

To Have and To Hold the Same, With all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all rights of homestead exemption, unto the said party.. of the second part, and to their heirs and assigns forever. And the said party of the first part does hereby covenant and agree that at the delivery hereof he is the lawful owner of the premises above granted, and seized of a good *an* indefeasible estate of inheritance therein, free and clear of all incumbrances, except various actions pending in the District Court at Sapulpa, Oklahoma, and pretended conveyances, from disinterested persons, and that he will Warrant and Defend the same in the quiet and peaceable possession of said parties of the second part, their heirs and assigns forever, against the lawful claims of all persons whomsoever.

Provided, Always, And these presents are upon the express conditions: That if the said party of the first part, his heirs and assigns, shall well and truly pay or cause to be paid

to the said party of the second part their heirs and assigns, the sum of .....Eight Thousand Dollars with interest thereon at the time and manner specified in one certain written contract, date August 17th, 1914, executed by the party of the first part, payable to the order of Thomas Atkins & Grant Hamlin at Muskogee, Okla., as follows: $8000.00 payable in accordance with said contract (being after title to said premises is cleared of said actions and pretended conveyances). This mortgage is non negotiable, and is a lien according to contract, said contract is given instead of note, and is due one year from date hereof, then and in that case these presents and everything herein expressed shall be void, but upon default in the payment of any part of the principal or interest, when the same is due, or any one of said notes at maturity, or upon the failure to pay any and all lawful assessments and taxes upon said premises when the same shall become due and payable, each and all of the several amounts herein secured shall immediately become due and payable; and if foreclosure proceedings be instituted hereon, the holder shall be entitled to recover $..... Attorney fee, all costs of suit, which sum shall be and become an additional lien and be secured by lien of this mortgage, and said part.... of the first part hereby expressly waive an appraisement of said real estate and all benefits of the homestead exemption stay laws of the State of Oklahoma.

And it is hereby further stipulated that during the continuance of this instrument in force, the said part.... of the first part shall at all times keep the buildings on said premises insured against loss or damage by fire or tornado in a sum not less than $..... loss, if any payable to the said part.... of the second part, as .....interest may appear...

In Testimony Whereof, The said party of the first part has hereunto set his hand and seal, the day and year above written.

W. P. Root.

Signed and delivered in the presence of.

.....

State of Oklahoma, County of Creek, ss.

Before me, the undersigned, a notary public in and for said county and state on this 17th day of August, 1914, personally appeared W. P. Root to me known to be the identical person, who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal, the day and year above written. W. H. O'Dell, Notary Public.

My commission expires Mar. 6, 1918. (Seal)

State of Oklahoma, Creek County, ss. This Instrument was filed in my office for record on the 17 day of Aug., A. D. 1914, at 9:30 o'clock A. M. and duly recorded in Book 72 on page 369. Fees $..... Huber Hughes, Register of Deeds. By C. K. Maddox, deputy.

Government's Exhibit A-75.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Release of Mortgage from Grant Hamlin to W. P. Root, as the same appears on the records of this office. Filed 24 day of Nov., 1914, at 10:30 o'clock A. M., and recorded in volume 39 at page 272.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of April, 1917.

(Seal) Gus L. Corey, County Clerk,

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

13820

RELEASE OF MORTGAGE.

Know All Men by These Presents, That I, Thomas Atkins, and Grant Hamlin, hereby acknowledge full settlement and satisfaction of a certain real estate mortgage dated the 17th day of August, 1914, for Eight Thousand ($8000.00) Dollars and made by W. P. Root, mortgagors to Thomas Atkins & Grant Hamlin, mortgagee, and recorded in book No. .... at page .... of mortgage records of Creek County, Oklahoma, on the following described lands, to-wit:

The SW4 of the NW4 of Section Four (4) and the SW4 of the NE4 and Lot Two (2) of Section Five all in Township Eighteen (18) North, Range Seven (7) East.

Given under my hand this .... day of August, 1914.

Thomas Atkins. Grant Hamlin, mortgagee.

State of Oklahoma, Muskogee County, ss.

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of August, 1914, personally appeared Grant Hamlin, and Thomas Atkins (who received the said mtg. as Thomas Atkins, formerly Martin Rowe, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

W. D. Halfhill, Notary Public.

My commission expires May 30/17. (Seal)

State of Oklahoma, Creek County, ss. This instrument was filed in my office for record on the 24th day of Nov., A. D. 1914, at 10:30 o'clock A. M. and duly recorded in Book 39 on page 272. Huber Hughes, register of deeds; By C. K. Maddox, deputy.

Government's Exhibit A-76.

CERTIFICATE OF TRUE COPY.

State of Oklahoma, County of Creek, ss.

I, Gus L. Corey, County Clerk of Creek County, State of Oklahoma, do hereby certify that the foregoing is a true copy of Quit Claim Deed W. P. Root to Thomas Atkins, as the same appears on the records of this office. Filed 24 day of Aug., 1914, at 4 o'clock P. M., and recorded in volume 62 at page 284.

Witness my hand and seal at Sapulpa, Creek County, Oklahoma, this, the 28 day of Aug., 1917.

(Seal) GUS L. COREY, County Clerk,

By ....., Deputy.

Jennings Ptg. Co., Sapulpa.

12427

QUIT CLAIM DEED.

Know All Men by These Presents, That W. P. Root, party of the first part, in consideration of the sum of One ($1.00) Dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto, Thomas Atkins (a one ½ blood Creek Indian, Roll No. 7913) and being the original allottee, of land hereafter described, the following described real property and premises situated in Creek County, State of Oklahoma, to-wit:

The SW4 of NW4 of Section Four (4) and the SW4 of the NE4 and Lot *Tow* (2) of Section Five (5) all in Township Eighteen, North, and Range Seven East containing 120.85 acres according to the U. S. Survey thereof.

together with all the improvements thereon and appurtenances thereunto belonging.

To Have and To Hold Said described premises unto the said party of the second part his heirs and assigns, forever.

Signed and delivered this 24th day of August, 1914.

W. P. Root.

Signed in the presence of

.....

State of Oklahoma, Creek County, ss.

Before me the undersigned, a Notary Public in and for said County and State, on this 24th day of August, 1914, personally appeared W. P. Root, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my Official hand and seal, the day and date above written.

(Seal) J. H. Land,

My commission expires Oct. 23, 1916. Notary Public.

Filed for Record at office of Register of Deeds, Creek County, Oklahoma, 24 Aug., 1914, at 4 o'clock P. M. Recorded in Book 62 at page 284. Huber Hughes, Register of Deeds.

Government's Exhibit A-77.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition:— in case Number 3723, Chas. Page et al. vs. Nancy Atkins Inc. Micco Harjo Gdn., in the District Court, as the same appears on file and record in my office.

Dated this 26 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By MAUDE C. ELLIOTT, Deputy.

State of Oklahoma, County of Creek—ss. In the District Court. Charles Page and R. A. Josey, Plaintiffs, vs. Nancy Atkins, an alleged incompetent, and Micco Harjo, her guardian, Nancy Atkins, H. U. Bartlett, Gypsy Oil Company, A. A. Hammer, William J. Murphy, Wilburn M. Norris, W. W. Walton, Ellis H. Hammett, Micco T. Harjo, J. B. White, E. W. Fowler, A. E. Gardner, A. Seltzer, Charles E. Ball, Charles Harrison, Thomas Harrison, Rufus C. Cobb, George C. Conrad, John R. Fields, James M. Brogan, A. J. Burchett, Harvey Harrison, Thomas Gilcrease, Robert Wilson and S. D. Shirk, Defendants.—No. 3723.

PETITION.

Comes now the plaintiff in the above entitled cause and shows the Court:

One: That Minnie Folk is a resident of Seattle, State of Washington, and Alexander MacNab, Jr., is a resident of ....., State of Washington.

Two: That Minnie Folk's maiden name was Minnie Atkins; that she is now married to Henry Folk and her name is now Minnie Folk.

Three: That Minnie Folk is now, and has been for a long time past, the owner of the lands hereinafter described, and is now in possession of the said lands; that the title to said lands is derived as herein set forth.

Four: That pursuant to the laws of the United States and the Treaties between the United States and the Creek Indians, there was on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins, the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section 4, and the Southwest Quarter (SW4) of the Northeast Quarter (NE4) of Section 5, and Lot Two (2) of Section 5, and Lot Four (4) of Section 4, all in Township 18 North, Range 7 East, containing one hundred and sixty-two (162) acres, more or less,

a copy of said patent being hereto attached and marked Exhibit "A".

Five: That Thomas Atkins was the son of Minnie Folk, then Minnie Atkins, and was born out of wedlock and was never recognized or acknowledged by his father. Heretofore and approximately in the year 1890, Thomas Atkins was given

by his said mother, Minnie Folk, into the custody of friends residing in the vicinity of Leavenworth, Kansas, who agreed with plaintiff, the mother of said Thomas Atkins, to care for said child, and from time to time to communicate with the said mother the condition of the said child; that in the year 1901 or 1902, Minnie Folk was informed, and now believes, that the said person to whom she gave said child, Thomas Atkins, died, and about the same period the said Minnie Folk was informed, and now believes, that the said Thomas Atkins died. That Minnie Folk from time to time made inquiries relative to the death and burial place of the said Thomas Atkins, but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins died and left surviving him as his sole heir, his mother, Minnie Folk, plaintiff in this cause. That although about ten (10) years have interneved since Minnie Folk learned of the death of the said Thomas Atkins, as aforesaid, and although many inquiries have been made by the said Minnie Folk and by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to his existence date of death and place of burial, and although said inquiries have covered the States of Kansas, Oklahoma, Texas and Washington, no knowledge has been obtained so far as plaintiff can learn of the details of the death and burial place of the said Thomas Atkins, except as herein appears. That at the death of the said Thomas Atkins, aforesaid, this plaintiff was the sole heir of the said Thomas Atkins and became the owner in fee of the lands above described.

Six: Minnie Folk having confidence in Alexander MacNab, Jr., on the .... day of June, 1914, as the sole heir of Thomas Atkins, deceased, did convey said lands in trust to the said Alexander MacNab, Jr., a copy of said conveyance being hereto attached and marked "Exhibit B."

Seven: That thereafter Minnie Folk learned that the oil and gas underlying the tract above described was being unlawfully extracted and learning that said lands were being drained by development for oil and gas in the vicinity, did, for a valuable consideration, together with the said Alexander MacNab, Jr., Trustee, make, execute and deliver to the Gem Oil Company, an oil and gas lease on said premises, for the purpose of developing said lands for oil and gas and protecting the same from drainage, which said lease was thereafter assigned to the said Charles Page and R. A. Josey, and which said lease is now in full force and effect.

Eight: Minnie Folk is informed and believes that the above named defendants claim some right, title or interest in

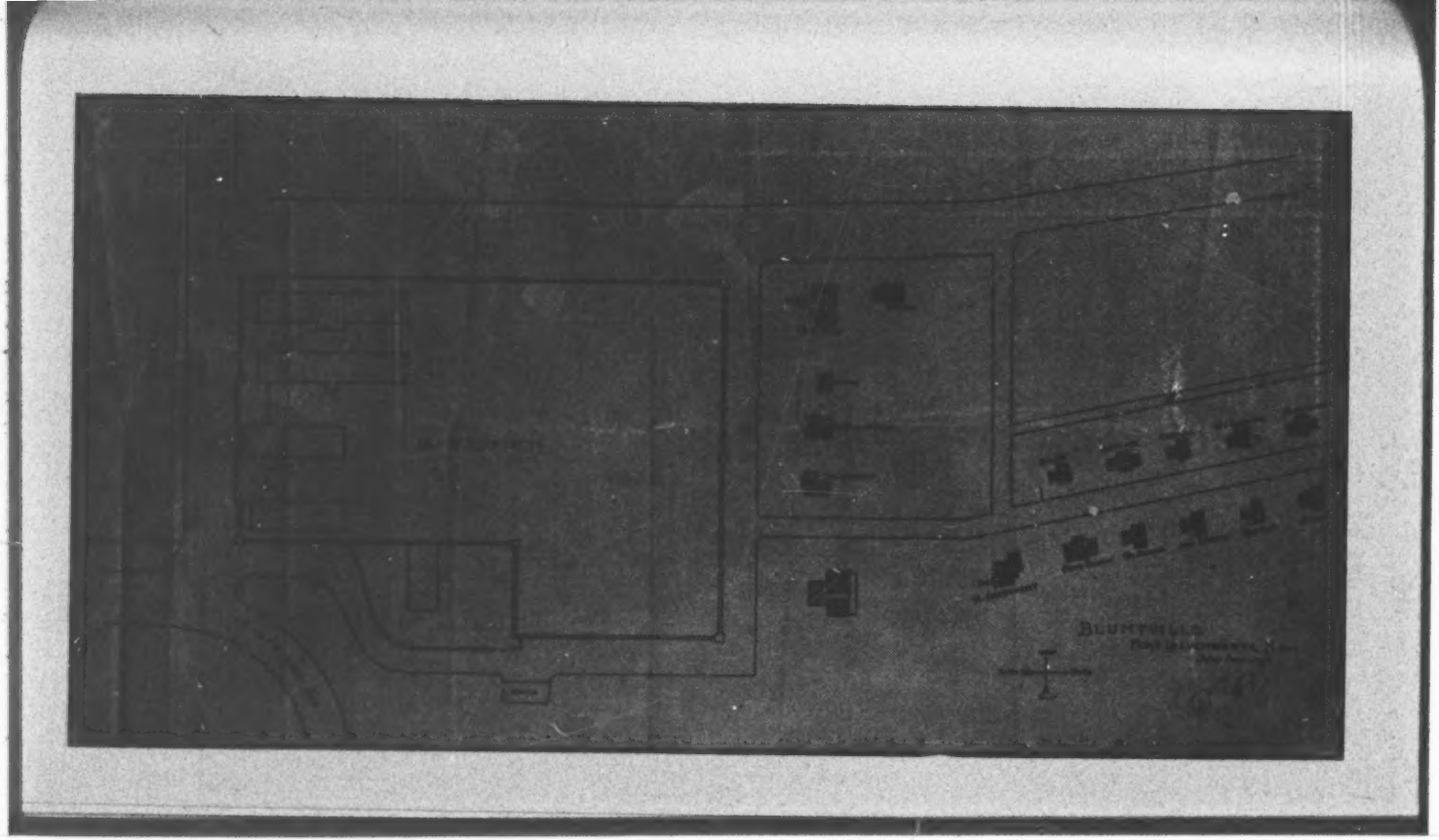
said premises adverse to her title to said lands; that said defendants have not any estate, right, title or interest whatever in said premises, or any part thereof.

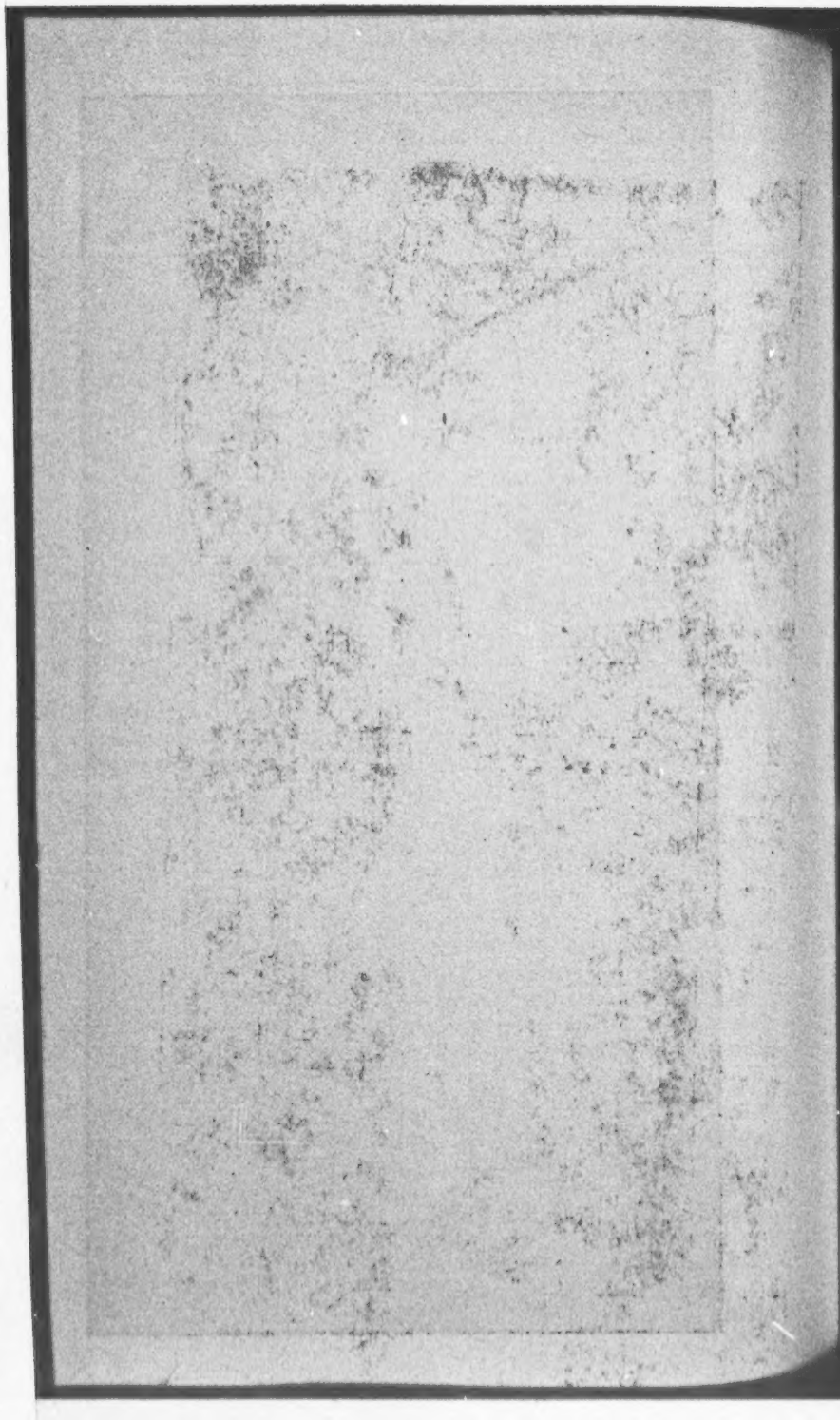
Nine: Minnie Folk, on or about the .... day of June, 1914, learned that a suit had been commenced in this Court by Nancy Atkins, entitled, Nancy Atkins, et al., versus H. U. Bartlett, et al., bearing Number 3120; that on said date the plaintiff learned that the said Nancy Atkins claimed to be the mother of the said Thomas Atkins, deceased, and was seeking to have the title to the lands above described quieted in her as, the mother and sole heir of the said Thomas Atkins. That at the time plaintiff learned of the existence of said suit, the cause had been tried, a decision had been rendered, and a motion for a new trial had been overruled. Plaintiff states that said judgment was obtained fraudulently on perjured testimony, and that plaintiff was not made a party to the said action, and had no knowledge of the same, except as herein appears; that as soon as plaintiff learned of the existence and status of said suit, and before any findings of fact and conclusions of law had been signed and filed, they caused notice to be given to the judge of this Court and the counsel in said cause, that the claims of Nancy Atkins were fraudulent and fraudulently asserted, and that she, Minnie Folk, would forthwith begin suit to quiet her title to said lands against all claimants.

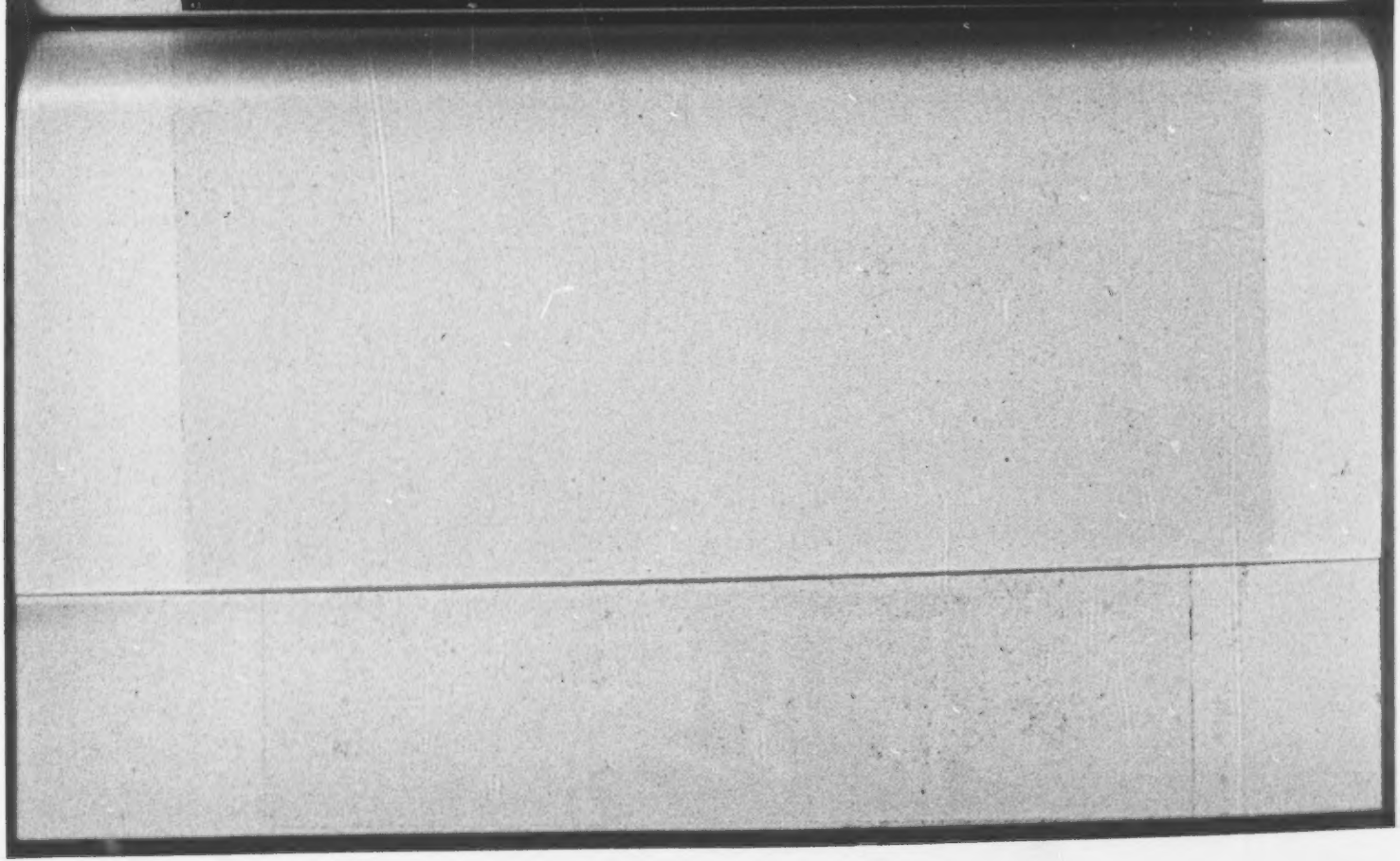
Plaintiffs allege that they held a lease for oil and gas under said Minnie Atkins, now Minnie Folk; that they are in peaceable possession under said lease and under a judgment of this court; that the defendants, H. U. Bartlett and the Gypsy Oil Company, their agents, servants and employees, are threatening by force and arms to dispossess these plaintiffs, and have collected a large number of men with arms and weapons to drive plaintiffs, their agents and employees, forcibly from said premises. The plaintiffs have no plain, speedy and adequate remedy at law, and will suffer irreparable injury unless said defendants are restrained from said wrongful act.

Wherefore, Plaintiffs pray that a temporary injunction issue commanding said defendants to desist from said wrongful and unlawful acts, and enjoining and prohibiting said defendants, their agents, employees and servants, from interfering with the rights of plaintiffs in and to said premises, pending the termination of this action. Plaintiffs pray for such other and further relief as to the court may seem equitable and just.

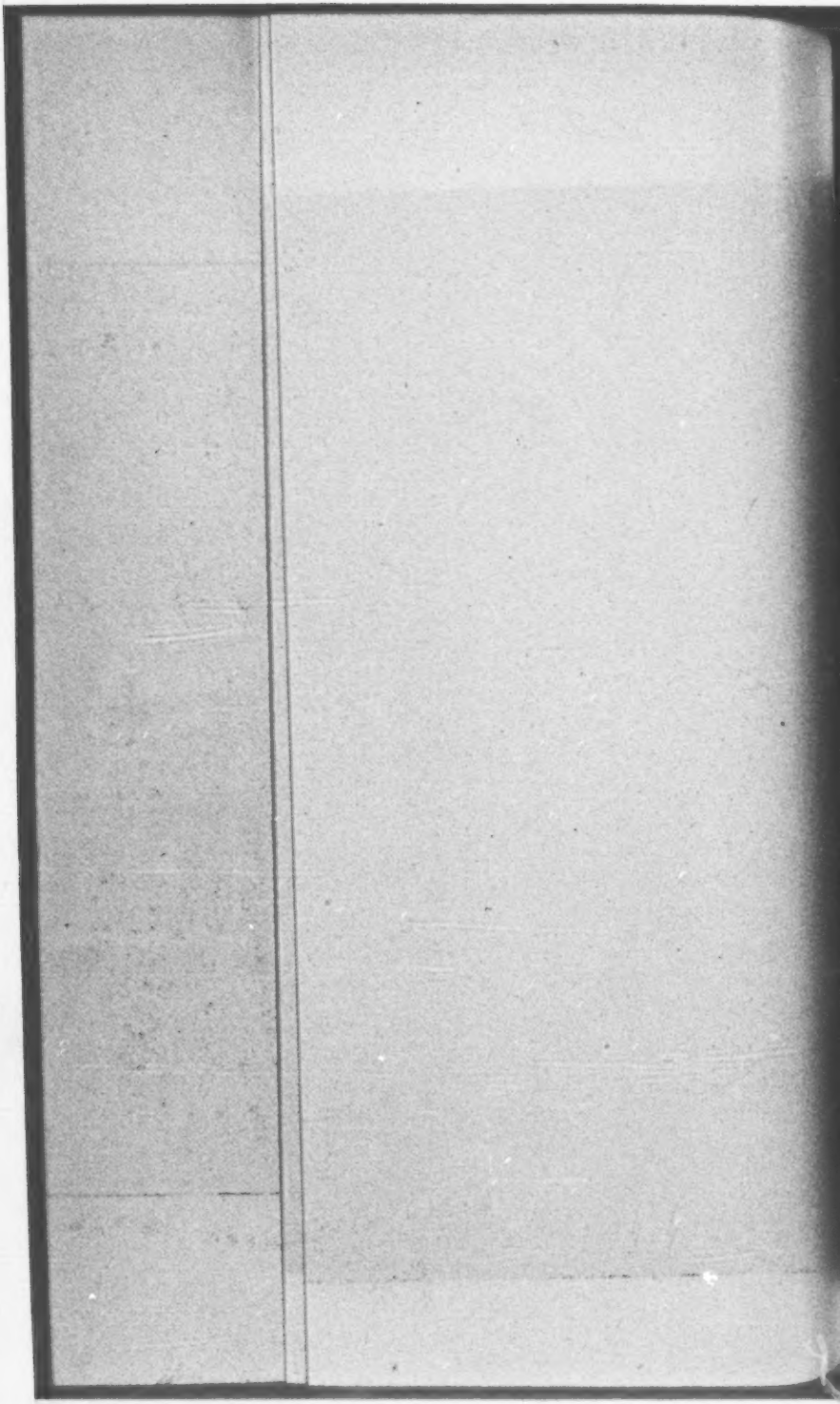
Rice & Lyons,
Attorneys for Plaintiffs.

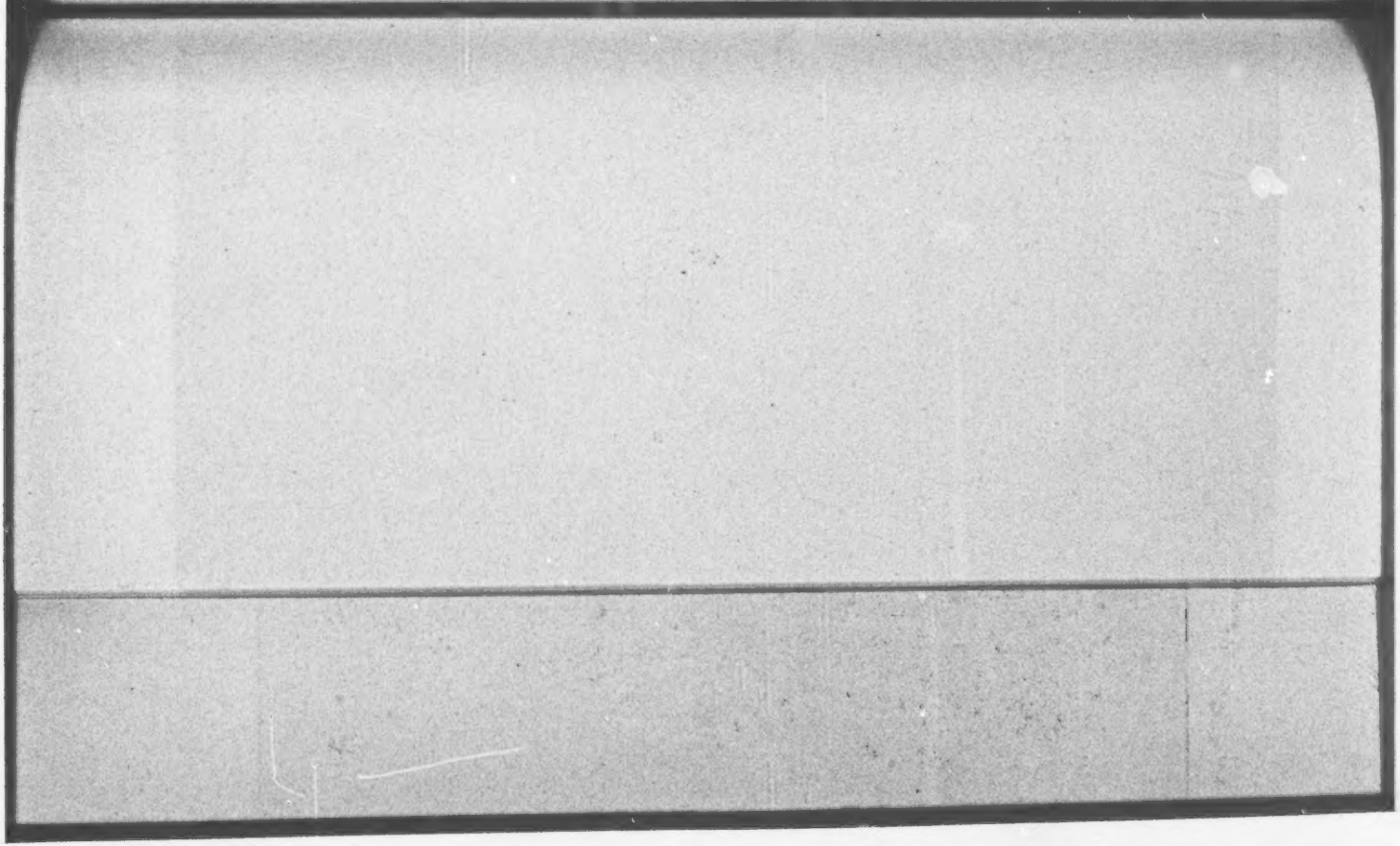






LEAVENWORTH, KANSAS





State of Oklahoma, County of Tulsa—ss.

Charles Page, having been first duly sworn, deposes and says that he is the plaintiff in the above entitled cause; that he has read the foregoing petition, and that the allegations of the same are true.

Chas. Page.

Subscribed and sworn to before me this 6th day of July, 1914.

(Seal) A. A. Aberly,

My commission expires June 15, 1918. Notary Public.

(On back:) 3723 Charles Page et al Pltff vs Nancy Atkins et al Defts Petition Received and Filed on July 7, 1914 W. R. Casteel District Clerk

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Government's Exhibit A-78.

[On envelope in which Breastpin is enclosed: Def. Folk & Hanford's Ex. 3.—Eq. 2131.—1/11/16.]

Government's Exhibit A-79.

[See insert herewith for photographic reproduction of Plat showing Grodevant Home and Military Prison, Fort Leavenworth.]

Government's Exhibit A-80.

[See insert herewith for reproduction of photograph of the Grodevant Home at Fort Leavenworth.]

Government's Exhibit A-81.

[See insert herewith for reproduction of another photograph of the Grodevant Home, showing the kitchen.]

(GOVERNMENT'S EXHIBIT A-81.)

[See inserts herewith (three sheets) for reproduction of photostatic copy of Certified Copy of Hospital Register, St. John's Hospital, Leavenworth.]

Government's Exhibit A-82.

Sec. 588-93

UNITED STATES OF AMERICA.

(U. S. Seal)

WAR DEPARTMENT,

Washington, April 18, 1917.

I hereby certify that it appears from the official records on file in The Adjutant General's Office of the War Department that the volume hereto attached sets forth the regulations for the Army of the United States that were issued from the War Department, by direction of the President of the United States, on February 9, 1889.

H. P. McCain,

Brigadier General, United States Army,

The Adjutant General.

I hereby certify that H. P. McCain, who signed the foregoing certificate, is The Adjutant General of the Army, and that to his certification as such full faith and credit are and ought to be given.

In testimony whereof I, Newton D. Baker, Secretary of War, have hereunto caused the Seal of the War Department to be affixed and my name to be subscribed by the Assistant and Chief Clerk of the said Department, at the City of Washington, this 18th day of April, 1917.

Newton D. Baker

(Seal) Secretary of War—

By John C. Scofiel—

Assistant and Chief C——

Regulations for the Army of the United States. 59

ARTICLE LV.

National, Battle Ground, and Post Cemeteries.

586. National cemeteries, and the records pertaining thereto, are in charge of the Quartermaster General. All correspondence between his office and the offices of his department in charge thereof, and the civil engineers and agents specially employed in connection therewith, will be direct. The monthly reports of superintendents will be forwarded direct to the Quartermaster General.

Battle Ground Cemeteries.

587. In order to secure, as far as possible, the decent interment of those who may fall in battle, it is made the duty of commanding generals to set apart a suitable spot near every battle field, and to cause the remains of the killed to be there interred. Headboards will be placed at the graves, each bearing the number of the grave and the name of the person buried therein. A register of the burial ground will be preserved, in which will be entered the location of each grave and the descriptive numbers and names which appear on the headboards.

Post Cemeteries.

588. The commanding officer of all posts, situated on public lands of the United States, will see that a suitable portion of such land is set apart and properly maintained for the burial of deceased officers and soldiers and their families and of Government employes.

589. The burial ground will be suitably inclosed with a wall or fence of the best material available, and will be maintained by the labor of the garrison. Materials for the construction and repair of fences and headboards will be furnished by the Quartermaster's Department.

590. At each grave will be placed a headboard, plainly marked with a number, and with the name, company, regiment, and date of death of the occupant; the number to correspond with the number in the record of burials. Headboards will be four feet long, ten inches wide, and one and three-eighths inches thick; to stand two feet out of the ground; to be of well seasoned wood, painted with three coats of white paint; the inscriptions in black letters one inch long.

591. The walks will be four feet wide, neatly rounded up, and properly drained and graveled, when the material is at hand. When practicable, a good grass sod should cover the rest of the ground, including the graves; and native trees and shrubs will be preserved or planted for ornament and shade.

592. A record of interments will be kept by the post quartermaster, which will be turned over by him, when relieved, to his successor, or transmitted to the Quartermaster General if the post be discontinued.

593. A report containing the list of the names of the interments, giving in each case number and locality of grave and date of death and burial, and if an officer or enlisted man,

his rank, company, and regiment, or corps, will be forwarded to the Quartermaster General at the end of each year.

PUBLIC PROPERTY, MONEY, AND ACCOUNTS.

ARTICLE LVI.

Advertising and Printing.

594. Section 3709, Revised Statutes, requires advertising a sufficient time for proposals for all purchases and contracts for supplies or services, except personal services, unless public exigency requires immediate delivery or performance. The act of July 5, 1884, also requires that purchases of supplies for the Quartermas- [End of page 59.]

Government's Exhibit A-83.

Gov. Ex. 22.—2131.—3-2-15.

This Agreement, Made this 23 day of September, 1914, between Gem Oil Company of Tulsa, of the first part, and Dennis Jones of Leavenworth, Kansas, of the second part.

WITNESSETH.

That, Whereas, The second party represents that he has information valuable to the first party relative to the birth, life and death of Thomas Atkins, the son of Minnie Atkins, and is in a position to obtain definite data relative thereto.

Now, For the considerations hereinafter set forth the party of the second part agrees and binds himself to give so much of his time as may be necessary for the securing of said data, and to proceed to gather the same on his own initiative, and under such instructions as the first party may see fit to give, and agrees to furnish evidence of the birth of the said Thomas Atkins, and particularly of the death of the said Thomas Atkins, son of the said Minnie Atkins. It being understood that the second party will cease his investigation any time at the direction of first party and that all information obtained by second party during the period of his employment by first party, will be deemed confidential and will not be revealed by second party without the permission in writing of first party.

For said services and the furnishing of said proof, the party of the first part agrees to pay all necessary expenses not exceeding Five and no/100 ($5.00)————————Dollars per day for each day that the said second party shall be engaged

in such work, and the further sum of Ten Dollars ($10.00) per day salary for each day that second party shall be actually engaged in said work; and it being in the contemplation of the parties that at least fifteen (15) days of the time of second party will be consumed in said work, it is agreed that at the execution hereof second party shall be entitled to fifteen (15) days pay and an advance of Thirty-seven and 50/100 ($37.50) Dollars to cover expenses, and to be pro-rated on the actual amounts expended by second party.

Whereas, Party of the first part and his associates have instituted suit in Creek County, Oklahoma, to recover for Minnie Atkins and first party and his associates, certain lands theretofore allotted on account of the citizenship of Thomas Atkins in the Creek Nation.

Now if second party shall in his efforts afore-described obtain satisfactory proof of the death of the said Thomas Atkins, son of the said Minnie Atkins, and member of the Creek Nation as aforesaid, and first party shall be successful in its litigation afore-described in the trial court trying said cause, the said party of the second part shall thereupon be entitled to an additional sum of Five Hundred Dollars ($500.00), which shall be due and payable upon rendition of judgment in favor of Minnie Atkins, first party and his associates, by the trial court aforesaid.

Witness Our hands the day and year first above written.

GEM OIL COMPANY,

By Chas. Page, First Party.

Dennis Jones, Second Party.

(On back:) 2909 Bill Chandler Ralph Dressback Muskogee Wks Bill Chandler Store Worked Choka Trading Co North Katy Hotel

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Government's Exhibit A-84.

Gov. Ex. 23.—2131 Eq.—3-2-15.

E. C. Hanford, Attorney at Law, Colman Building.

Seattle, Wash., November 23, 1914.

Dear Peterkin:

I want to thank you again for keeping me informed in regard to the other people writing to you. I should have written you long ago but have been in court almost every day since my return to Seattle or, if not in court, getting a case prepared for trial.

This man Rosser, who wrote you, is attorney for some people who laid claim to Minnie's land under the belief that she was dead, or, at least, that she would never be found. She set up a fictitious claim in behalf of Minnie's sister by asserting that she was the mother of Minnie's child.

Minnie was very much amused when she learned that I had gone to you for information regarding the birth of this child. She had previously told me that you had no knowledge of the matter and that she had scrupulously kept the matter from you and from everyone else that she was connected with after the child's birth. The child was born in the town of Leavenworth before she ever got acquainted with the Army post. She was quite a character about Leavenworth for a couple of years and after she got away from there she staid away, in so far as she allowed other people to find out.

It was at that time that she started her system of keeping her past a complete mystery to all who knew her. You know that, until this case came up, she had not for years mentioned your name or the name of Harrison to anyone. No *on* connected with her knew her origin or anything regarding her past. Even her present husband was entirely ignorant regarding her. That she had had children was totally unknown.

In the same way, while you were connected with her, she had a little son playing around in Leavenworth. He was about a year and a-half old before Minnie ever went out to the post.

We have taken the depositions of about forty people in the town of Leavenworth who knew Minnie, knew the child and all about the time it was born. Minnie's friends kept the child in Leavenworth until he was about twelve years old. He was known by the name of Thomas Atkins and everyone knew that he was part Indian and that Minnie was his mother.

It seems that it was Oliver who got Minnie to go out to the post. She went with him some time before she met you. We had Minnie in Leavenworth again since I saw you. Dozens of people know her there and know all about her and the child. People would recognize her on the street. She was better known in the town than she ever was out at the post.

She is back at home now, here in Seattle, living quietly with her husband and trying to recover from the excitement of her renewing old associations in Leavenworth and trying to again forget it all. She has grown to be of very nervous temperament and to go back over her experiences of thirty years ago and have people find out all about her past is very trying to her. We had her in the hospital for a week in Leavenworth suffering from nothing but nerves.

The details of Minnie's history after she went out to the Army post at Leavenworth do not concern these people that wrote to you and they have no business inquiring into that part of Minnie's history. She [] certainly entitled to keep private anything that is not involved in the case. But it is just like those people to try to nose in to something that does not concern them. If you reply to their letter at all, I wish that you would just tell them that Minnie did not inform you of the incidents of her life prior to the time you met her and that you consider what took place afterwards a private matter which you do not intend to have them inquire into.

How about that cold weather up in Boston? You ought to be having some of it by now. Nothing but rain out here —not pleasant but better than snow and icy cold by a whole lot. Now don't write and tell me that you are having an Italian climate etc.—I know what winter is in New England. Just the same I would like to have a little tast of it—only enough to make my blood tingle a bit.

Don't know whether I shall ever get to Boston again or not but, if I should, I'll look you up and we can have that lunch time together and a trip out to the beach or something. You turned me down on it last time and I really believe the days vacation would have done you good.

So long, Peterkin—be good. And don't forget to write me if those people down there keep butting in.

Yours for the Army and Navy forever,

E. C. Hanford.

Could not mail this at time of writing same as I misplaced your address E. C. H.

Government's Exhibit A-85.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition in Case Number 3719, Minnie Folk (formerly Minnie Atkins. et al. vs. The unknown heirs and devisees of Thomas Atkins, dec., et al. in the District Court, as the same appears on file and record in my office.

Dated this 27 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By H. H. BURNS, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins), on behalf of herself, and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The unknown heirs and devisees of Thomas Atkins, deceased, Harvey Harrison and Charles Harrison, Defendants.—No. 3719.

PETITION.

Comes now the plaintiff in the above entitled cause, and shows to the court that she is a resident of Seattle, State of Washington, and that Alexander MacNab, Jr., is a resident of Seattle, State of Washington.

That plaintiff's maiden name was Minnie Atkins, and that she heretofore married Henry Folk, and her name is now Minnie Folk.

That the plaintiff, Minnie Folk, is now, and has been for a long time past, the owner in fee simple of the lands hereinafter described, and is now in possession of said lands; that the title to said lands is derived as herein set forth.

That pursuant to the laws of the United States, and the Treaties between the United States and the Creek Indians, there was, on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins, deceased, the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), and the Southwest Quarter (SW4) of the Northeast Quarter (NE4), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18), North, Range Seven (7) East, containing one hundred sixty (160) acres, more or less,

a copy of said patent being hereto attached and marked Exhibit "A".

That Thomas Atkins was a son of Minnie Atkins, and was born out of wedlock, and was never recognized or acknowledged by his father. Heretofore, and approximately in the year 1890, Thomas Atkins was given by his said mother, Minnie Atkins, into the custody of ..... a woman residing in the vicinity of Leavenworth, Kansas; that said ....., whose name is not at this time known to plaintiff's attorney agreed with plaintiff, the mother of said Thomas Atkins, to care for said child, and from time to time to communicate with the said mother the condition of the said child; that in the year 1901 or 1902, Minnie Atkins was informed, and now believes, that the said ....., to

whom she had given the said child, Thomas Atkins, died, and about the same period, the said Minnie Atkins was informed, and now believes, that the said Thomas Atkins died.

That Minnie Atkins has, from time to time, made inquiry relative to the death and burial place of the said Thomas Atkins, but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins died and left surviving him as his sole heir his mother, Minnie Atkins, plaintiff in this cause. That although about thirteen (13) years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins, as aforesaid, and although many inquiries have been made by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to his existence, date of his death and place of burial, and although said inquiries have covered the states of Kansas, Oklahoma and Texas, no knowledge has been obtained so far as plaintiff can learn of the details of the death and burial place of the said Thomas Atkins, except as herein appears. That at the death of the said Thomas Atkins aforesaid, this plaintiff became the sole heir of the said Thomas Atkins, deceased, and became the owner in fee of the lands above described.

That Harvey Harrison and Charles Harrison, defendants, as plaintiff is informed and believes, are making some claim to said premises, the nature of which is to plaintiff unknown; that said claims are void.

That this plaintiff desires to quiet title against all other persons claiming to be heirs or devisees of Thomas Atkins, deceased, if any there be, and that the names, residences and addresses of all of said persons, save and except said Harvey Harrison and Charles Harrison, so claiming, are unknown to this plaintiff; that such claims, if any there be, are void; that said claimants should be made parties defendant to this suit, and served by publication, and that an affidavit for said service is attached hereto, made a part of this petition, and marked Exhibit "B".

Wherefore, Plaintiff prays judgment against said defendants, Harvey Harrison and Charles Harrison, and against the unknown heirs and devisees of Thomas Atkins, deceased; that the title to said premises be decreed in plaintiff in fee simple; that she be declared the owner thereof; that the claims of defendants and said unknown heirs and devisees, and each of them, be canceled and held for naught, and that the defendants and all persons claiming or to claim by, through or under said Thomas Atkins, deceased, or said unknown heirs or devisees, or said Harvey Harrison or Charles Harrison,

subsequent to the filing of this action, be forever barred and enjoined from setting up any claim adverse to the title of plaintiff in and to the premises hereinbefore described.

(Signed) E. C. Hanford,
Attorneys for Plaintiff.

State of Oklahoma, County of Tulsa, ss.

E. C. Hanford, being first duly sworn, deposes and says: that he is the attorney for Minnie Folk and Alexander J. MacNab, Jr., Trustee, in the above entitled action that the said Minnie Folk is absent from the State of Oklahoma, and for that reason he makes this affidavit.

That he has read the foregoing petition, and that the facts therein stated are true, as he verily believes.

(Seal) (Signed) E. C. Hanford.

Subscribed and sworn to before me this Third day of June, (July,) 1914. (Signed) E. F. Gester,
My commission expires September 16, 1915. Notary Public.

Exhibit "B".

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins), on behalf of herself, and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The unknown heirs and devisees of Thomas Atkins, deceased, Harvey Harrison and Charles Harrison, Defendants.—No. .....

AFFIDAVIT FOR SERVICE BY PUBLICATION.

E. C. Hanford, having been first duly sworn, deposes and says: that he is the attorney of the plaintiff in the above entitled cause; that said plaintiff is a non-resident of the State of Oklahoma, and is absent from the State of Oklahoma at this time. That for said reason, this affiant makes this affidavit.

That affiant states that it is necessary to make the unknown heirs or devisees of Thomas Atkins, deceased, parties defendant to the above entitled cause; that the names of all of said heirs or devisees and the name of any of them and their residences are unknown to plaintiff.

Wherefore Plaintiff prays that service by had on said unknown heirs and devisees, and each of them, by publication, and that this affidavit is annexed to plaintiff's petition for the purpose of obtaining such service.

(Signed) E. C. Hanford.

Subscribed and sworn to before me this Third day of July, 1914.

(Seal) (Signed) E. F. Gester,

My Commission expires September 16, 1915. Notary Public.

(On back:) No. 3719. Minnie Folk, etc., Plaintf., vs. The unknown heirs and devisees of Thomas Atkins, deceased, et al., Defendants. Received and Filed, Jul. 3, 1914; W. R. Casteel, District Clerk. E. C. Hanford, Attorney for Plaintiff.

Government's Exhibit A-86.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Amended Petition in Case Number 3772, Minnie Folk vs. Nancy Atkins, Inc & Micco Harjo, Gdn., in the District Court, as the same appears on file and record in my office.

Dated this 26 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By MAUDE C. ELLIOTT, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins) on behalf of herself and on behalf of Alexander MacNab, Jr., Trustee, and on behalf of Charles Page and R. A. Josey and Alexander MacNab, Jr., Trustee, Plaintiff, vs. Nancy Atkins, an alleged incompetent, and Micco Harjo, her guardian, Nancy Atkins, H. U. Bartlett, Gypsy Oil Company, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Micco T. Harjo, J. B. White, E. W. Fowler, A. E. Carder, A. Seltzer, Charles M. Ball, Charles Harrison, Rufus C. Cobb, George C. Conrad, John R. Fields, James M. Brogan, A. J. Burchett, Thomas Gilcrease, Robert Wilson and S. D. Shirk, Defendants.—No. 3772.

AMENDED PETITION.

FIRST CAUSE OF ACTION.

Comes now the plaintiff in the above entitled cause and for her first cause of action shows the Court:

I.

That she is a resident of Seattle, State of Washington, that Alexander MacNab, Jr., is a resident of Salmon, in the State of Idaho.

II.

That plaintiff's maiden name was Minnie Atkins; that she was heretofore married to Henry Folk and her name is now Minnie Folk.

III.

That plaintiff is now and has been for a long time past the owner in fee of the lands hereinafter described and is now in possession of said lands; that the title to said lands is derived as herein set forth.

IV.

That pursuant to the laws of the United States and the treaties between the United States and the Creek Indians, there was on the 14th day of April, 1903, duly conveyed by patent to Thomas Atkins the following described lands located in what is now Creek County, State of Oklahoma, to-wit:

> The Southwest quarter (SW4) of Northwest quarter (NW4) of Section Four (4), and the Southwest quarter (SW4) of Northeast quarter (NE4) of Section Five (5), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty-two (162) acres, more or less, a copy of said patent being attached hereto and marked Exhibit "A".

V.

That Thomas Atkins was the son of Minnie Atkins and was born out of wedlock, and was never recognized or acknowledged by his father. Heretofore and approximately in the year 1890, Thomas Atkins was placed by plaintiff in the custody of friends residing in the vicinity of Leavenworth, Kansas, who agreed with plaintiff to care for said child and from time to time to communicate with plaintiff the condition of said child; that in the year 1901 or 1902 plaintiff was informed and now believes that the person into whose custody she had given the said child, died and about the same time the said plaintiff was informed, and now believes, that the said Thomas Atkins died; that plaintiff from time to time has made inquiry relative to the death and burial place of the said Thomas Atkins but has been unable to ascertain the exact date of his death or place of burial; that the said Thomas Atkins

died and left surviving him as his sole heir, his mother, Minnie Atkins, now Minnie Folk, plaintiff in this cause. That although about ten years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins aforesaid, and although many inquiries have been made by persons desiring to obtain an interest in the property of the said Thomas Atkins above described, as to the exact date of his death and place of burial, and although said inquiries have covered the States of Kansas, Oklahoma and Texas, no knowledge has been obtained thereof except as herein appears. That at the death of the said Thomas Atkins aforesaid leaving this plaintiff as his sole heir as aforesaid, plaintiff became the owner in fee of the lands above described.

VI.

Minnie Atkins having confidence in Alexander MacNab, Jr., on the 13th day of June, 1914, as the sole heir of Thomas Atkins, deceased, conveyed said lands in trust to the said Alexander MacNab, Jr., a copy of said conveyance being hereto attached and marked Exhibit "B".

VII.

That in the year 1914 the said Minnie Atkins and Alexander MacNab, Jr., Trustee, learned that the lands above described were claimed by various persons through alleged deeds and other conveyances. This plaintiff has never executed any conveyance of any interest of any nature in said premises except an oil and gas lease to the Gem Oil Company as hereinafter appears. That the said Thomas Atkins, by himself or by his guardian, has executed no conveyance of any interest in said premises.

VIII.

That about the .... day of June, 1914, plaintiff caused her agent and attorney, E. C. Hanford, to go from the State of Washington to where plaintiff now resides, to Creek County, State of Oklahoma, where said lands are located, for the purpose of investigating the clouds on her title to said lands and of taking possession of same for and on behalf of plaintiff and her said Trustee, Alexander MacNab, Jr., and with authority in the said Hanford to place the lessees of plaintiff in possession of said premises that the said Hanford duly proceeded to Creek County, Oklahoma, and there entered into possession of said premises on behalf of this plaintiff and plaintiff is now in possession of the same.

IX.

Plaintiff alleges that the oil and gas underlying the tract above described is unlawfully extracted and that said lands are being drained by development for oil and gas in the vicinity of said tract; that the only conveyance executed by plaintiff, except the conveyance to her said trustee, was the execution of an oil and gas lease to the Gem Oil Company; that after the said Hanford had taken possession of said premises on behalf of this plaintiff said oil & gas lease was delivered to the said Gem Oil Co. and became in full force and effect; that thereafter the said Gem Oil Company assigned said leasehold, estate to Charles Page and R. A. Josey, and said estate is now in full force and effect. Plaintiff is informed that the above named defendants claim some right, title or interest in the said premises adverse to her title to said lands; that said defendants have not any estate, right, title or interest whatever in said premises or any part thereof.

X.

That plaintiff is informed that the Gypsy Oil Company claims a leasehold estate in said premises by reason of the execution of a deed by this plaintiff to the lessor of the said Gypsy Oil Company. Plaintiff states that she never executed a deed on said premises, except to her said trustee, and that the conveyance under which the said Gypsy Oil Company claims is a forgery and is not the deed of this plaintiff and conveyed no interest in said tract; that plaintiff is informed and charges the fact to be that the Gypsy Oil Company is aware that said deed under which the said Company claims a right in the said premises, is a forgery, and in truth and in fact said deed has been cancelled by this court in an action in which plaintiff was not a party.

XI.

That Nancy Atkins and other defendants claiming under the said Nancy Atkins, claim some interest in said lands by reason of the fraudulent allegations of said Nancy Atkins to the effect that she, Nancy Atkins, is the mother of the said Thomas Atkins, deceased. That on or about the .... day of June, 1914, plaintiff learned that a suit had been commenced in this Court by the said Nancy Atkins entitled "Nancy Atkins, and others, vs. H. U. Bartlett, and others" and bearing number 3120; that on said date the plaintiff learned that the said Nancy Atkins claimed to be the mother of the said Thomas Atkins, deceased, and was seeking to have the title to the lands above described quieted in her as the mother and sole heir of the said Thomas Atkins. At the time plaintiff learned

of the existence of said suit, the cause had been tried, a decision had been rendered and a motion for new trial had been overruled. Plaintiff states that said judgment was obtained fraudulently on perjured testimony, and that the plaintiff was not made a party to said action and had no knowledge of the same except as herein appears; that as soon as plaintiff learned of the existence and status of said suit, and before any findings of fact and conclusions of law had been signed and filed, she caused notice to be given to the judge of this Court and the counsel in this cause, that the claims of Nancy Atkins were fraudulent and fraudulently asserted, and that she, Minnie Folk, would forthwith begin suit to quiet title to said lands against all claimants.

XII.

Plaintiff further states that there is no probability of the defendant, the Gypsy Oil Company, being successful in this litigation, or any other litigation adverse to the title of this plaintiff, for the reason that the title of the said Gypsy Oil Company is dependant upon a forged deed as heretofore alleged; that there is no probability of successful determination of this cause in favor of Nancy Atkins, or those claiming under her, for the reason that the claims of the said Nancy Atkins are fraudulent, untrue and based on perjured testimony, and for the further reason that the guardian of the said Nancy Atkins, an alleged incompetent, and instigator of said suit, is a fugitive from the State of Oklahoma, and is subject to prosecution for perjury in the cause of the said Nancy Atkins, et al., vs. Bartlett, et al., before described; that the other defendants in said cause claim an interest through certain brothers of the said Thomas Atkins, deceased, and a successful determination of said cause in favor of the said defendants is improbable for the reason that the Supreme Court of the State of Oklahoma, and the Circuit Court of Appeals of the United States have held that plaintiff is the sole heir of the allottee and that the brothers and sisters have no interest in the property of the allottee.

XIII.

That by reason of the claims of the defendants, particularly the claims of the Gypsy Oil Company, whose deed, as aforesaid, has been canceled by this Court, and who is without right in the premises because its interest in said premises is based on a forged deed, plaintiff is unable to proceed with the development of said land through its lessees, Page and Josey; that said lands have a present value for oil and gas and said lands are being drained; that there are .....

wells within a ..... mile of said premises, including a well within three hundred (300) feet of the ..... line of said lands, producing two hundred fifty (250) barrels per day; that on account of the improbability of the success of said defendants and a lack of funds, plaintiff does not believe that said lands should be developed by a Receiver and plaintiff subjected to the costs of a Receivership; that by reason of the drainage of said lands, plaintiff is suffering an irreparable damage and has no plain, adequate and speedy remedy at law. That the injury sustained by plaintiff by reason of said drainage is continuing clearly impending, irreparable and not susceptible to ascertainment in damages. That injury is substantial and results in a loss of dollars and cents to this plaintiff every day the present conditions are continued. That the defendant, Gypsy Oil Company, has drilled a well on said premises and is now operating the same at a depth of ..... feet; that the rich sand underlying said tract lies at a depth of ..... feet; that plaintiff should have possession of said well so that she or her lessees may drill the said well to a greater depth and thus obtain the oil from said rich sand; that the continuance of the operation of said well by the said defendant, Gypsy Oil Company, will probably result in many disputed claims and many actions at law against this complainant though said Gypsy Oil Company's rights in and to said well are without foundation as aforesaid. That the repeated trespasses of the Gypsy Oil Co. & the trespasses threatened by Nancy Atkins and the claimants under her are a willful invasion of complainant's rights for which plaintiff has no adequate remedy at law; that the acts of the said defendants are unfair, oppressive and fraudulent for the reason that the claims of descendants are unfounded as is well known to said defendants; that the continuous wrongful invasion of plaintiff's rights and the continuous wrongful operation of said well by the said Gypsy Oil Company constitutes a continuing damage against plaintiff for which plaintiff has no plain, speedy and adequate remedy at law. That the lands described do not lie in one tract, but lie in two divided tracts of eighty (80) acres each; that said lands have a value of approximately Two Hundred Fifty Thousand Dollars ($250,000.00) for oil and gas; that the same are being continually drained; that the Gypsy Oil Company in another suit has given a bond of Six Thousand Dollars ($6,000.00) to which these plaintiffs are not parties; that said bond affords plaintiff no protection; that plaintiff can not recover damages for the drainage of said oil during the pendency of litigation which may be vexatiously continued for a number of years; that this plaintiff and her lessees, Page

and Josey, are in peaceable possession of said premises and acquired said possession peaceably; that said plaintiffs have erected a rig for drilling on said lands and have hauled thereon tools for drilling and are maintaining the same at an expense of approximately fifty dollars ($50.00) per day at a location suitable for drilling an off-set well to said well which is now draining said property; that plaintiffs, Page and Josey, are protected in their possession by an injunction but are prohibited from drilling operations thereon; that defendants, Gypsy Oil Company and H. U. Bartlett, are seeking to have said injunction protecting said Page and Josey vacated and have asserted and state that they intend to treat said plaintiffs and this plaintiff as trespassers upon said land; that said Gypsy Oil Company and H. U. Bartlett will, unless restrained by order of this Court, with force and arms and weapons endeavor to destroy the possession of plaintiff by forcibly ejecting plaintiff and said lessees, Page and Josey, from said premises and throwing their said rig and drilling tools forcibly off said land, and will forcibly prevent plaintiffs from extracting oil and gas from said land, and thereby prevent plaintiffs from protecting said lands against drainage, all to the irreparable injury of plaintiffs. That the disturbance of said possession will or may interfere with the legal rights of plaintiff and her lessees pending the event of this litigation, and it is the intent of said Bartlett and Gypsy Oil Company to destroy said possession if possible and thereby unjustly and fraudulently permit said lands to be drained.

SECOND CAUSE OF ACTION.

I.

Plaintiff alleges that heretofore plaintiff was the owner and seized in fee and entitled to the possession of a certain tract of land situated in Creek County, State of Oklahoma, and described as follows, to-wit:

The Southwest quarter (SW4) of Northwest quarter (NW4) of Section Four (4), and the Southwest quarter (SW4) of Northeast quarter (NE4) of Section Five (5), and Lot Two (2) of Section Five (5), and Lot Four (4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, containing one hundred sixty-two (162) acres, more or less.

II.

That while plaintiff was such owner and so seized and possessed and entitled to the possession of said land and prem-

ises, the defendants, Gypsy Oil Company and H. U. Bartlett, did prior hereto and subsequent to the acquiring of the ownership of the fee by plaintiff, without right or title, enter into and upon said premises and since said date have withheld and still withhold the possession thereof from plaintiff to her damage.

III.

That the Gypsy Oil Company has drilled a well on said lands for oil and gas and has heretofore, and is now, extracting the oil therefrom, the value of which and the damage sustained by this plaintiff, is at this time unknown to plaintiff; that plaintiff's title to said lands is derived as set forth in the First Cause of Action in this petition stated, and the allegations thereof showing the derivation of said title, are made a part hereof the same as if herein specifically written. The instruments of conveyance of said title are hereto attached as follows:

Copy of patent to Thomas Atkins, Exhibit "A".

Trust deed from Minnie Atkins to Alexander MacNab, Jr., Exhibit "B".

Lease from Minnie Atkins to the Gem Oil Company, Exhibit "C".

Assignment from Gem Oil Company to Charles Page and R. A. Josey, Exhibit "D".

IV.

That the rights of Alexander MacNab, Jr., in and to said premises are as set forth in the First Cause of Action in this petition, and the allegations made therein are made a part hereof the same as if herein specifically written.

V.

That the rights of the said Charles Page and R. A. Josey in and to said premises are as set forth in the First Cause of Action in this petition and the allegations therein relative thereto are made a part hereof the same as if herein specifically written.

Wherefore, Plaintiff prays as to her first cause of action:

I.

Plaintiff renews her prayer for a temporary injunction and leave of Charles Page and R. A. Josey to drill an off-set well as in the prayer in the original petition in this cause set forth.

II.

That plaintiffs be adjudged the owners of said premises and entitled to the proceeds of all oil produced thereon as their interests may appear.

III.

That an accounting be had.

IV.

That plaintiff's title be quieted against defendants, and all of them, and that defendants and all persons claiming, or to claim, by, through or under them, be forever enjoined from setting up a claim of any character in and to said premises.

As to her second cause of action plaintiff prays:

I.

For restitution of said land and premises.

II.

For an accounting.

III.

For such sum in damages for the use of said lands and the oil extracted therefrom as may be proper in the premises and ascertained by the accounting.

E. C. Hanford,
Rice & Lyons,
Attorneys for Plaintiff.

(On back:) No. 3772 Minnie Folk, et al., Plaintiff, vs. Nancy Atkins, et al., Defendants. Amended Petition. Received and filed on Sep. 16, 1914, W. R. Casteel, District Clerk, Ray McElHinney, Deputy. Rice & Lyons, Lawyers, Tulsa, Okla., Attorneys for Plaintiff. $1.25

Government's Exhibit A-87.

Jennings Ptg. Co., Sapulpa. (Label)

CERTIFICATE.

State of Oklahoma, County of Creek, ss.

I, Harrison Arnold, Court Clerk in and for Creek County, State of Oklahoma, hereby certify the within to be a true copy of the Petition in Intervention "Oil and Gas Lease" being omitted, in this copy & certificate, in Case Number 3719,

Minnie Folk (formerly Minnie Atkins) on behalf of herself & on behalf of Alexander MacNab, Jr., Trustee, Plntf., vs The Unknown Heirs of Thomas Atkins, Dec., Harvey Harrison & Thomas Harrison, Def., in the District Court, as the same appears on file and record in my office.

Dated this 27 day of April, 1917.

(Seal) HARRISON ARNOLD, Court Clerk.

By H. H. BURNS, Deputy.

State of Oklahoma, County of Creek, ss. In the District Court. Minnie Folk (formerly Minnie Atkins) on behalf of herself and on behalf of Alexander MacNab, Jr., Trustee, Plaintiff, vs. The Unknown Heirs of Thomas Atkins, deceased, Harvey Harrison and Thomas Harrison, Defendants; Charles Page and R. A. Josey, Intervenors. —No. .....

PETITION IN INTERVENTION.

Come now the intervenors and show the Court that heretofore Minnie Folk (formerly Minnie Atkins) the plaintiff in this cause, made, executed and delivered to the Gem Oil Company an oil and gas lease on the premises described in the petition. A copy of said oil and gas lease being hereto attached, marked Exhibit "A" and made a part hereof.

That thereafter the Gem Oil Company assigned said leasehold to the intervenors, Charles Page and R. A. Josey, who are now the present owners of said leasehold and in peaceable possession thereof. A copy of said assignment being attached hereto and marked Exhibit "B", and made a part hereof.

That Minnie Folk is now, and has been for a long time past, the owner of the fee title to the lands in said petition described; that the title of the said Minnie Folk to said lands is derived as in her petition set forth.

That the said Minnie Folk claims some right, title or interest adverse to the leasehold of these intervenors. The nature of said claim is not well founded in law.

That Thomas Atkins was a son of Minnie Atkins and was born out of wedlock and was never recognized or acknowledged by his father. That heretofore and approximately in the year 1890 the said Thomas Atkins was given by his said mother, Minnie Atkins, into the custody of ..... a woman residing in the vicinity of Leavenworth, Kansas; that intervenors have made inquiry but are unable to learn the name of said woman; but are informed by the said Minnie

Atkins that the said woman agreed to care for said child and from time to time to communicate with the said mother the condition of the said child.

That intervenors are informed that in the year 1901 or 1902 Minnie Atkins was informed that the woman to whom she had given the said child, died, and that at the same time said Minnie Atkins was informed that said Thomas Atkins died; that these intervenors have caused inquiries to be made in the States of Oklahoma, Kansas, Texas and Washington, but have been unable to ascertain the exact date of the death of the said Thomas Atkins or the burial place of the said Thomas Atkins.

That many inquiries have been made by other persons desiring to obtain an interest in the property described in the petition, as to the existence, date of death and place of burial of the said Thomas Atkins, but no knowledge has been obtained so far as intervenors can learn of the details of the death *of* place of burial of the said Thomas Atkins.

That although about thirteen (13) years have intervened since Minnie Atkins learned of the death of the said Thomas Atkins as aforesaid, and although inquiries as herein set forth have been made, at no time during said period has anything been learned as to the death or burial place of the said Thomas Atkins.

That on account of the long silence of the said Thomas Atkins, his failure to appear during said period, and the total failure of results from inquiries made as to his existence, a presumption of law has arisen that the said Thomas Atkins is dead.

That at the date at which the said Minnie Atkins was informed of the death of the said Thomas Atkins, the said Thomas Atkins was so young that there is no probability that the said Thomas Atkins left wife or issue surviving him.

That the lands described in the petition have a value for oil and gas and that said lands are now being drained by development for oil and gas in the vicinity, and unless said lands are protected by drilling operations irreparable damage will ensue to the owner of the fee and these intervenors and said lands will be drained of oil and gas.

That intervenors are ready, able and willing to proceed with the development of said lands pursuant to the terms of said lease. That the drilling operations necessary to protect said lands from drainage will entail a large expenditure of money, approximately Fifty Thousand Dollars ($50,000.00), and these intervenors stand ready to hazard said necessary sum in the development of said lands.

Intervenors further show the Court that the lease under which they hold is the ordinary form of lease with the usual conditions and stipulations contained in leases for oil and gas in the oil and gas field in which said lands are located.

That the development of said lands without delay is necessary for the protection of the said Thomas Atkins, if he were alive, and is necessary for the protection of the lessor, Minnie Atkins, as well as the rights of these intervenors.

Intervenors respectfully show the Court that in the event said expenditures are made and said Thomas Atkins should at some future time establish his identity and right to said premises, it would be inequitable to permit intervenors to hazard the loss of said money, and further hazard the risk of cancellation of their lease by said Thomas Atkins. That in the event intervenors hazard said sum of money in drilling operations, they are entitled to equitable relief in the protection of said leasehold estate for oil and gas subject to a proper accounting to said Thomas Atkins should he ever appear, for the royalty from said premises.

That an order should be made permitting intervenors to make said expenditures thereunder and protecting intervenors in their leasehold estate for oil and gas in the event the same is found in paying quantities.

Intervenors further show the Court that in the event oil and gas is not found in paying quantities, they do not expect re-imbursement from the said Thomas Atkins for any expenditures for development on said premises should he ever appear, and hereby expressly waive any claim to same.

That intervenors join in the plaintiff's prayer to quiet title against the unknown heirs and devisees of the said Thomas Atkins, deceased.

Wherefore, Intervenors pray judgment quieting their title and for an order protecting their leasehold estate and for such other and further relief as to the Court shall seem equitable and just.

(Signed) Rice & Lyons,
Attorneys for Intervenors.

State of Oklahoma, County of Tulsa, ss.

Charles Page being first duly sworn deposes and says that he is one of the intervenors in the above entitled cause; that he has read the above and foregoing petition in intervention, and that the facts therein stated are true to the best of his knowledge and belief.

(Signed) Charles Page.

Subscribed and sworn to before me this 3rd day of July, 1914.

(Seal) E. F. Gester,

My commission expires Sept. 16, 1915. Notary Public.

(On back:) No. 3719. Minnie Adkins, Plaintiff, vs. The Unknown Heirs of Thomas Atkins, Dec'd, et al., Def. Received and filed, Jul. 3, 1914; W. R. Casteel, District Clerk.

Government's Exhibit A-88.

C.T.D.

Leavenworth, Kansas.

August 3rd, 1914.

This agreement made and entered into this 3rd day of August, A. D. 1914, by and between Gypsy Oil Company, party of the first part and Dennis Jones, party of the second part;

Whereas, it is the desire of first party to locate one Thomas Atkins and it is claimed by said second party that he has reason to believe that he knows the whereabouts of said Atkins.

It is therefore agreed that the said first party shall pay to second party the sum of $10.00 per day and all necessary expenses during the time necessary to locate said Thomas Atkins and that C. E. Crawley, representing said first party is to go with said second party and in case the said Thomas Atkins is located and satisfactory arrangements are made with him and said first party, and his identity is established by witnesses, the said second party is to receive the further sum of Five Hundred ($500.00) Dollars. The expenses of the witnesses necessary to establish his identity in Court is to be paid by first party but their names and addresses are to be furnished by said second party.

It is further agreed that upon leaving Leavenworth a round trip ticket to the destination will be furnished to the second party by the first party and an advance payment of Fifty $50.00 dollars will be made.

Witness our hands the day and year first above written.

Gypsy Oil Co.

By C. E. Crawley

Dennis Jones

Jones 2270 W. 4th & Choctaw & 326 Osage Ave

Government's Exhibit A-89.

C.T.D.

Dennis Jones, Lawyer, Leavenworth, Kansas.

Leavenworth Kansas August 17th 1914.

Hon. C. E. Crawley,

3rd Vice Pres. Gypsy Oil Company,

Tulsa Oklahoma.

Dear Sir:

I have been on the trail of ..... since I left Mr. Greenslade, and feel like the conditions of our contract will soon have to be carried out.

When away from here a few days ago I heard that the ..... had died in Chicago some years ago, but upon investigation I found that to be untrue, I talked with a man who knew the object of my search to be living, that is, he was a short time ago.

I have this day handed to Hon. Lee Bond a statement of my expense account to date together with a statement of the amount received which I trust you will approve.

Mr. Crawley I feel a great degree of confidence in the matter and if I am retained to further my investigation and search for the missing link I will be successful, I shall meet the Masonic Grand Lodge in Pittsburg on the 25th of this month and will there see and meet several hundred people, and among them I may locate the link.

Let me know as earley as is convenient for you to do so.

Very truly,

Dennis Jones

Government's Exhibit A-90.

C.T.D.

Bartlett—Atkins 115450

Dennis Jones, Lawyer, Leavenworth, Kansas.

Leavenworth Kans *ug*, 22nd 1914.

C. E. Crawley,

Tulsa, Oklahoma.

Dear Sir:

The other people were here to day and had an interview with Ruben J. Smith the suppose uncle of the missing Thomas Atkins and tried to get him as I understand to say that he knew of the death of the boy here several years ago, but he

(Ruben J. Smith) has repeatedly told me that he knew of the boy being a live person and that he knew this to be a fact, I have not seen him since his interview with the other people and cannot tell you just what he said to them but will find out when I meet him.

I saw the woman Sadie James as she is known there, she was here yesterday and called at my office and told me that she had come to the conclusion that the boy Thomas Atkins was dead and seemed to be interested in the other people but I told her that I knew better that the boy was still living and that I would produce him in a very short time, she left me and said she would call again but she did not and I have not seen her since.

What is the name of the other firm that is on the still hunt for the boy for if I knew I could look the hotel register over and tell you who was here.

Mr. Bond told me that he had sent in my expense account which I trust youll approve and allow. Very truly,

Dennis Jones

Government's Exhibit A-92.

No. 599½. Leavenworth, Kans., May 16, 1885.

INSLEY, SHIRE & CO. BANKERS,

Pay to the order of Ed Haberlien—— ——————————

Forty ——————————— Dollars.

$40.00. 100

John Rohr

St. Louis Bank Note Company.

(On back:) Ed. Haberlien.

Government's Exhibit A-93.

State of Kansas, County of Leavenworth, ss. In the District Court in and for Said County. C. F. W. Dassler and L. G. Hopkins, Plaintiffs, vs. Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Darington and James Darington, her husband, and John Mettinger, Defendants.

PETITION.

The said plaintiffs, C. F. W. Dassler and L. G. Hopkins, complains of the said defendants, Charlotte W. Calkins, John Dotter, Gustav Dotter Alonzo F. Callahan, Lily White, Emma Ferrell, now called Emma Darington and James Darington,

her husband, and John Mettinger, and allege that heretofore, to-wit, on or about the 1st day of August, 1884, said defendants, Emma Darington, by the name of Emma Ferrell, at Leavenworth, Kansas, duly made her certain promissory note in writing of that date, and duly delivered the same to defendant John Dotter, and thereby for value received promised to pay to the order of said John Dotter in thirteen months from the date thereof, the sum of Fifty Dollars with interest thereon at the rate of eight (8) per cent per annum from date thereof, said note being dated August 1, 1884, that at the same time and place said defendant, Emma Darington by the name of Emma Ferrell, made her four other certain promissory notes of the same date, each for fifty dollars, bearing interest at the same rate, and one due fourteen months after said date, another one fifteen months after said date, another one twenty-one months after date, and the fourth due twenty-two months after said date, all payable to the order of said defendant John Dotter (Copies of all of aforesaid notes, and endorsements thereon, marked respectively "Exhibit B," "Exhibit C," "Exhibit D," "Exhibit E," "Exhibit F" are hereto attached, herewith filed, and made a part hereof).

And plaintiffs further aver that at or about the same time the said defendant Emma Darington, by the name of Emma Ferrell, made her five certain other promissory notes of the same date, each for fifty dollars, bearing the same rate of interest, and due, one in sixteen months after said date, another in seventeen months after said date, another in eighteen months after said date, another in nineteen months after said date, another in twenty months after said date, all payable to the order of John Dotter, and likewise delivered all of said notes to said John Dotter. (Copies of which said five last named notes are hereto attached, herewith filed, and made a part hereof, marked "Exhibit G," "Exhibit H," "Exhibit I," "Exhibit J" and "Exhibit K," respectively.

And plaintiffs further aver that said John Dotter long before the maturity of said ten above described notes, for value, transferred the same to plaintiffs, and that plaintiffs are now the legal owners and holders thereof; that none of said notes have been paid; that there is due plaintiffs on said ten notes the sum of Five Hundred Dollars, with interest thereon at eight per cent per annum from August 1st, 1884.

That said defendant Emma Darington by the name of Emma Ferrell at the same time and place, and of the same date, to secure the payment of the said ten several promissory notes, duly made, executed and delivered to the defendant Gustav Dotter, her certain mortgage deed, (a copy of

which is hereto attached, herewith filed and made a part thereof, marked "Exhibit A"), and thereby to secure *tha* payment of said notes and the interest thereon, conveyed to said Gustav Dotter Lots numbered twenty-three and twenty-four in block numbered twenty-four in the City of Leavenworth proper, in the County of Leavenworth and State of Kansas; that among other, said mortgage has a condition thereunder written in substance that if said defendant Emma Darington by the name of Emma Ferrell should fail or neglect to pay any one of the notes secured thereby, or the interest thereon, at the time when due and payable, that then and in that case all of notes to secure which said mortgage was made should at once become due and payable; that said defendant Emma Darington by the name of Emma Ferrell has wholly neglected or refused to pay the notes due September first, 1885 ("Exhibit B") and the note due October first, 1885 ("Exhibit C"); or any interest thereon, or any part thereof; that said mortgage also had a condition thereunder written in substance that said defendant Emma Darington by the name of Emma Ferrell, should keep the buildings on said lots insured in the sum of $1000.00 for the benefit of the holders of the said notes, yet, said defendant, Emma Darington, has wholly neglected and refused to so keep said buildings insured; that the said defendant Emma Darington by the name of Emma Ferrell duly acknowledged said mortgage deed to and before one A. F. Callahan, a Notary Public as shown by said "Exhibit A"; that said mortgage deed was duly filed for record and recorded in Book 90 at page 281, et seq., of the Register of Deeds office of Leavenworth County, Kansas, on July 22, 1884; that said defendant, Emma Darington who went under the name of Emma Ferrell, has wholly neglected and refused to comply with any of the agreements or provisions by her in said mortgage deed made or contained, whereby the said mortgage has become absolute; that the defendants Charlotte W. Calkins, Alonzo F. Callahan, Lily White, Emma Darington, known in said transactions as Emma Ferrell, John Dotter, Gustav Dotter, James Darington and John Mettinger, claim some interest in said premises, the exact nature of which is to these plaintiffs unknown, but said plaintiffs aver that whatever claim or interest if any either or any of said defendants may have, that the same is subject to the claim of these plaintiffs, and that plaintiffs have a first and prior claim over all of said defendants on the said property. Plaintiffs aver that said property is insufficient to pay the mortgage debts thereon.

Wherefore, plaintiffs demand judgment against said defendant Emma Darington, and John Dotter, for the sum of

Five Hundred Dollars, with interest thereon from the first day of August, 1884, at the rate of eight per cent per annum, and for a sale of the above described premises according to law, to pay the said amount, interests and costs, and for a further order, judgment and decree, forever foreclosing and barring said defendants Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Darington, formerly Emma Ferrell, and James Darington, her husband, and John Mettinger, and each and every of them for any and all interest, right or claim in and to said property, or any part thereof, and for such other and further relief as plaintiffs may be entitled to, and for costs, etc., and plaintiffs also pray for the appointment of a receiver herein, etc.

C. F. W. Dassler and
L. G. Hopkins,
Plaintiffs.

"Exhibit A."

This mortgage, made this 16th day of July in the year of Our Lord One Thousand Eight hundred and [] four, between Emma Ferrell (a single woman) of Leavenworth, Kansas, party of the first part, and Gustav H. Dotter, of the same place, party of the second part,

Witnesseth: That the said party of the first part, for and in consideration of the sum of Two Thousand Dollars to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, and to his heirs and assigns forever, all of the following described tract, piece and parcel of land, lying and situate in the County of Leavenworth and State of Kansas, to-wit: Lots numbered twenty-three (23) and twenty-four (24) in Block numbered twenty-four (24) in the City of Leavenworth proper.

To Have and to Hold the same with all and singular the hereditaments and appurtenances thereunto belonging unto the said party of the second part, her heirs and assigns forever. Provided Always and these presents are upon this express condition: That whereas, the said party of the first part has this day executed and delivered her thirty nine certain promissory notes in writing to John Dotter, each bearing the date of August first, 1884, payable respectively in from one to thirty nine months after date, each for Fifty dollars, with eight per cent per annum interest thereon from date until paid, the first note becoming due September 1st, 1884, and

one note falling due on the first of each subsequent month until thirty nine are paid with eight per cent interest as aforesaid. Now, if the said party of the first part shall well and truly pay or cause to be paid said sums of money in said notes mentioned, with interest thereon according to the tenor of said notes, then these presents shall be null and void. But if said sums of money, or any part thereof, or any interest thereon be not paid when the same become due, then the whole of said sum and interest shall immediately become payable; or if the taxes and assessments which are or may be assessed against said lands and appurtenances, or any part thereof, are not paid at the time when the same are made payable, then the whole of said sums shall immediately become due, and upon forfeiture of this mortgage the party of the second part shall be entitled to the possession of the said lands, appurtenances, improvements, rents and profits thereof. And the said party of the second part may then, or at any time thereafter, enter upon the lands hereby mortgaged, all buildings and improvements, and remove therefrom every person, forcibly if necessary, take and retain possession, and receive the rents and profits thereof. And the party of the first part shall, at her own expense, from this time until said notes and interest and all liens by virtue hereof are fully paid off, keep the buildings now or hereafter erected on said lands insured to the amount of One Thousand Dollars in some responsible insurance company duly authorized to do business in the state, for the benefit of the said party of the second part, and assign the policy or policies thereof to the said party of the second part; and in default thereof the said party of the second part may effect said insurance in his own name, and the premiums and expenses for effecting the same shall be an additional lien on said property, and may be enforced in the same manner as the principal debt hereby secured.

In Witness Whereof the said party of the first part has hereunto set her hand, the day and year first above written.

Emma Ferrell.

State of Kansas, Leavenworth County, ss.

Be it remembered that on this, 19th day of July, A. D. Eighteen Hundred and Eighty four, before the undersigned, a Notary Public in and for the County and State aforesaid, came Emma Ferrell, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year last above written. Com. Expires July 24th, 86.

Notarial Seal) A. F. Callahan, Notary Public.

Recorded July 22, 1884, Book 90, p. 281.

"Exhibit B"

[Across face of "Exhibit B":] Protested for non-payment, Sept. 4, 1885, W. H. Chaplin, N. P.

Leavenworth, Kansas, August 1st, 1884.

Thirteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insely Shire & Co., Bankers, Leavenworth, Kas., value received, with interest at the rate of Eight per cent. per annum from date until paid.

$50.00——Due—33681 Emma Ferrell.

Endorsements. John Dotter, J. C. McHale.

"Exhibit C"

Leavenworth, Kans., August 1st, 1884.

Fourteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due—33682. Emma Ferrell.

Seneca between 2" & 3"

Endorsements: John Dotter, J. C. McHale."

"Exhibit D"

Leavenworth, Kans., August 1st, 1884.

Fifteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due 33683 Emma Ferrell.

Endorsements: John Dotter, J. C. McHale."

"Exhibit E"

Leavenworth, Kans., August 1st, 1884.

Twenty-one months after date I promise to pay to the or-

der of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00 Due ..... Emma Ferrell.

Endorsements—John Dotter."

"Exhibit F"

Leavenworth, Kans., August 1st, 1884.

Twenty-two months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due Emma Ferrell.

Endorsements—John Dotter."

"Exhibit G"

Leavenworth, Kans., August 1st, 1884.

Sixteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00 Due ..... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit H"

Leavenworth, Kans., August 1st, 1884.

Seventeen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ..... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit I"

Leavenworth, Kans., August 1st, 1884.

Eighteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with

interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ..... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit J"

Leavenworth, Kans., August 1st, 1884.

Nineteen months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ..... Emma Ferrell.

Endorsed—John Dotter."

"Exhibit K"

Leavenworth, Kans., August 1st, 1884.

Twenty months after date I promise to pay to the order of John Dotter Fifty Dollars payable at office of Insley Shire & Co., Bankers, Leavenworth, Kan. Value received, with interest at the rate of eight per cent. per annum from date until paid.

$50.00——Due ..... Emma Ferrell.

Endorsed—John Dotter."

PRECIPE.

Clerk will issue summons to Sheriff of Leavenworth Co., Kans., for Alonzo F. Callahan, Lily White and John Mettinger, returnable in 3 days. Amount claimed, $500.00 & eight per cent. interest from Aug. 1st, 1884, and foreclosure of mortgage; also a summons to Sheriff of Ellsworth County, Kans., for John Dotter, returnable in 12 days.

C. F. W. Dassler,
Atty. for Pltff.

Endorsed on back of file: 9295 District Court of Leavenworth Co. Kans. Dassler & Hopkins vs. Charlotte W. Calkins, et al. Petition and Precipe. Filed October 30, 1885, John Rohr, Clerk, by Chas. Crouse, D. C. Dassler.

State of Kansas, County of Leavenworth, ss. In the District Court in and for Said County. C. F. W. Dassler and L. G. Hopkins, Plaintiffs, vs. Charlotte W. Calkins, et al., Defendants.—No. 9295.

AMENDMENT TO PLAINTIFFS' PETITION.

And now come said plaintiffs and amend their petition herein as follows:

Wherever the name "Emma Darrington" appears in said petition by changing it so as to read "Emma Kauffer," and wherever the name "James Darington" appears in said petition by changing it so as to read "Walter W. Kauffer" so that the parties defendant to said action will be

Charlotte W. Calkins, John Dotter, Gustav Dotter, Alonzo F. Callahan, Lily White, Emma Kauffer and Walter W. Kauffer, her husband, and John Mettinger.

C. F. W. Dassler, Atty. for Pltfs.

Endorsed on back: 9295—District Court of Leavenworth County Dassler & Hopkins vs. Charlotte W. Calkins, et al., Dfts. Amendment of Plaintiffs' Petition. Filed November 23, 1885 John Rohn, Clerk by Chas. Crouse, D. C. Dassler.

The State of Kansas, First Judicial District, Leavenworth, County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Petition with endorsements thereon and exhibits thereto, in the case entitled C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al., No. 9295, in the therein entitled cause as the same remains on file in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 1st day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By Dorothy Biddle, Deputy.

Government's Exhibit A-94.

Established in 1857. Office of A. F. Callahan, Attorney at Law

Leavenworth, Kan. ....., 188..

District Court of Leavenworth County, Kansas. C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al.

Above cause is to be dismissed at plaintiff's costs.

C. F. W. Dassler,
Attorney for Plaintiffs.

A. F. Callahan,
for self, and as Atty. for C. W. Calkins.

Dated Nov. 27/85

Endorsed on back: District Court of Leavenworth County, Kansas. C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al. Dismissal.

The State of Kansas, First Judicial District, Leavenworth, County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Order of Dismissal in the case entitled C. F. W. Dassler, et al., vs. Charlotte W. Calkins, et al., No. 9295, in the therein entitled cause as the same remains on file in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 2nd day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By Dorothy Biddle, Deputy.

Government's Exhibit A-95.

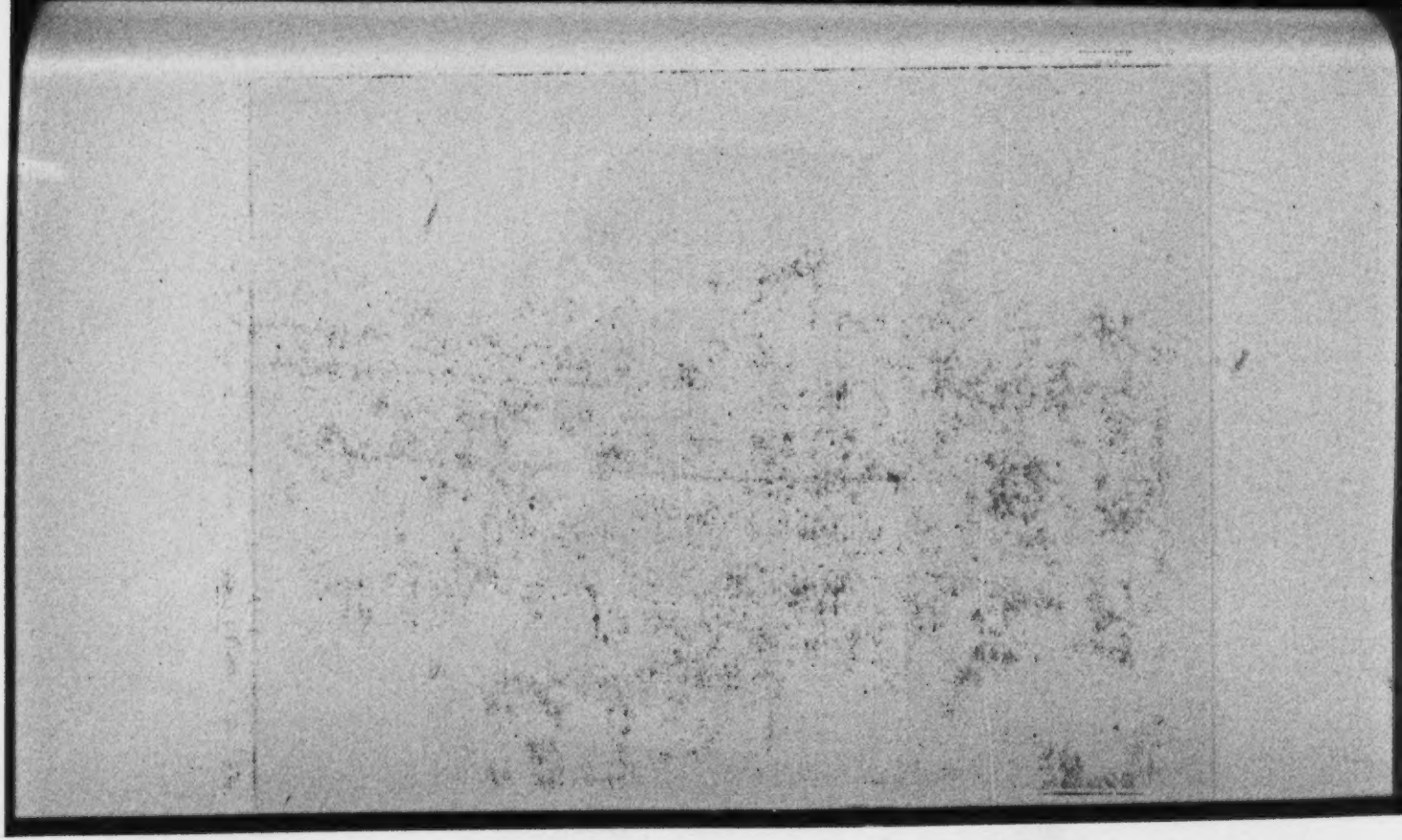
[See insert herewith for reproduction of photograph of the Grodevant Residence.]

Government's Exhibit A-96.

[See insert herewith for reproduction of photograph of the Front Porch of the Grodevant Home.]

Government's Exhibit A-97.

[See insert herewith for reproduction of photograph of the Woods' Residence.]



FAMILY SCHEDULE—1 TO 10 PERSONS.

Supervisor's District No. 2
Enumeration District No. 143

[7—1894.]

Eleventh Census of the United States.

SCHEDULE No. 1.

POPULATION AND SOCIAL STATISTICS.

Name of city, town, township, or other subdivision of county: Leavenworth; County: Leavenworth; State: Kan

Street and No.: 119 North 3d st; Ward: 1st; Name of Institution: x

Enumerated by me on the 16 day of June, 1890. William N Hyde, Enumerator.

A.—Number of Dwelling-houses in the order of visitation.	379	B.—Number of families in this dwelling-house.	1	C.—Number of persons in this dwelling-house.	6	D.—Number of Family in the order of visitation.	283	E.—No. of Persons in this family.	6

	INQUIRIES.	1	2	3	4	5
1	Christian name in full, and initial of middle name.	Mollie	William	Lemon	Walter	Fanny
	Surname.	Letcher	Phillips	Smith	Bender	Carroll
2	Whether a widow, widow, or divorced, and the wife of a soldier, or widow of such person.	x	x	x	x	x
3	Relationship to head of family.	Head	Son	Son	Roomer	Roomer
4	Whether white, black, mulatto, quadroon, octoroon, Chinese, Japanese, or Indian.	Black	Black	Mulatto	Mulatto	Mulatto
5	Sex.	Female	Male	Male	Male	Female
6	Age at nearest birthday. If under two years, give age in months.	51	32	23	21	29
7	Whether single, married, widowed, or divorced.	Widow	Single	Single	Single	Widow
8	Whether married during the year (June 1, 1889, to May 31, 1890).	x	x	x	x	x
9	Mother of how many children, and number of these children living.	6-1	x	x	x	1
10	Place of birth.	Tennessee	Mo	Kan	Kan	Mo
11	Place of birth of Father.	Tennessee	Mo	Mo	Mo	Tennessee
12	Place of birth of Mother.	Tennessee	Mo	Mo	Mo	Tennessee
13	Number of years in the United States.	x	x	x	x	x
14	Whether naturalized.	x	x	x	x	x
15	Whether naturalization papers have been taken out.	x	x	x	x	x
16	Profession, trade, or occupation.	Housework	Laborer	Laborer	At School	Roomer
17	Months unemployed during the census year (June 1, 1889, to May 31, 1890).	x	x	x	x	x
18	Attendance at school (in months) during the census year (June 1, 1889, to May 31, 1890).	x	x	x	9	x
19	Able to Read.	No	No	Yes	Yes	Yes
20	Able to Write.	No	No	Yes	Yes	Yes
21	Also to speak English, if not the language or tongue spoken.	English	English	English	English	English
22	Whether suffering from acute or chronic disease, with name of disease, and length of time afflicted.	x	x	x	x	x
23	Whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed, with name of infirmity.	x	x	1 Hand amputated	x	x
24	Whether prisoner, convict, homeless child, or pauper.	x	x	x	x	x
25	Supplemental schedule and page.					

TO ENUMERATORS.—See inquiries numbered 26 to 30, inclusive, on the second page of this schedule. Those inquiries must be made concerning each family and each male visited.

(1890—1,000,000) 15 24

SCHEDULE No. 1.—POPULATION AND SOCIAL STATISTICS.

	INQUIRIES.	6	7	8	9	10
1	Christian name in full, and initial of middle name.	Walter				
	Surname.	Johnson				
2	Whether a soldier, sailor, or marine during the civil war (U. S. or Conf.), or widow of such person.	X				
3	Relationship to head of family.	Roomer				
4	Whether white, black, quadroon, octoroon, mulatto, Chinese, Japanese, or Indian.	Black				
5	Sex.	Male				
6	Age at nearest birthday. If under one year, give age in months.	21				
7	Whether single, married, widowed, or divorced.	Single				
8	Whether married during the census year (June 1, 1899, to May 31, 1900).	X				
9	Mother of how many children, and number of these children living.	X				
10	Place of birth.	Mo				
11	Place of birth of Father.	Mo				
12	Place of birth of Mother.	Mo				
13	Number of years in the United States.	X				
14	Whether naturalized.	X				
15	Whether naturalization papers have been taken out.	X				
16	Profession, trade, or occupation.	Laborer				
17	Months unemployed during the census year (June 1, 1899, to May 31, 1900).	X				
18	Attendance at school (in months) during the census year (June 1, 1899, to May 31, 1900).	X				
19	Able to Read.	yes				
20	Able to Write.	yes				
21	Able to speak English. If not, the language or dialect spoken.	English				
22	Whether suffering from acute or chronic disease, with name of disease and length of time ill during the census year.	X				
23	Whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed, with name of defect.	X				
24	Whether a prisoner, convict, homeless child, or pauper.	X				
25	Supplemental schedule and page.					
26	Is the home you live in hired, or is it owned by the head or by a member of the family?				Rented	
27	If owned by head or member of family, is the home free from mortgage incumbrance?					
28	If the head of family is a farmer, is the farm which he cultivates hired, or is it owned by him or by a member of the family?					
29	If owned by head or member of family, is the farm free from mortgage incumbrance?					
30	If the home or farm is owned by head or member of family, said mortgagee, give the post-office address of owner.					

TO ENUMERATORS.—The inquiries numbered 26 to 30, inclusive, must be made concerning each family and each farm visited.

(1900—1,000,000) 2 b

Government's Exhibit A-98.

ERM

DEPARTMENT OF COMMERCE.

Washington, April 21, 1917.

I hereby certify that the annexed is a true copy of the original returns for the family of Mollie Letcher, made by William H. Hyden, Enumerator, in Ward 1, Leavenworth, Leavenworth County, Kansas, at the Eleventh Census, 1890, on file in the Bureau of the Census.

SAM L. ROGERS,
Director. (Official title.) A

OFFICE OF THE SECRETARY.

I hereby certify that Sam. L. Rogers, who signed the foregoing certificate, is now, and was at the time of signing, Director of the Census, and that full faith and credit should be given his certification as such.

In witness whereof, I have hereunto subscribed my name, and caused the seal of the Department of Commerce to be affixed this 21st day of April, one thousand nine hundred and seventeen.

(Seal) WILLIAM C. REDFIELD,
Secretary of Commerce.

Copied ERM K.T.W.

[See insert herewith for reproduction of Government's Exhibit A-98, showing front and reverse sides.]

Government's Exhibit A-101.

Eq. 2131.

(Stamp:) Dep't. of the Interior Received May 17 1916 To Indian Office Secy's Off. Mails & Files

(Stamp:) Interior Dept. Received May 17 1916 Office of the Secretary.

(Stamp:) Office of Indian Affairs Received May 18 1916 54049

Sells Dft

U. S. Government (Affair)

(Dept. of the Interior)

Washington, D. C. May 13—

I do not know just exactly who to write to but I take it for granted that Uncle Sam will place this in the right hands.

(I know that *Indian affairs* are managed by the U. S. Government.)

—

The Tommy Atkins case in *Oklahoma*, is a *'fraudulent'* one! I worked on the case just *exactly one year* May 17th *"blind folded* so to speak." I have letters from J. Truman Nixon, the "Indian Record" man in *Tulsa*, which *prove* that I was working in the dark, and which more than *convinced* me —*(at the time,)* that *'our'* cause was *(right)*—or *I* would never have stayed by them, as long as I have. 'Tis true my faith in the case, commenced to slip—as far back as last *August*—but was re-assured—by J. Truman Nixon, *by letter* from Oklahoma City that we were in the right. I saved *all* his letters and telegrams, and am willing to hand them over to the proper authorities *any time.*

Only *two* weeks ago, I learned that the Tommy Atkins, Nixon was parading around is a Jew—from *Texas,*—his name was Tommy *Mooney*, but by Nixon's magical transformation he became Tommy Atkins. Nixon had him registered some where at Sweetwater Texas—as Tommy Atkins and was the *first* to introduce him as Tommy Atkins. *Tommy*—is even *branded*—(tatooed I guess)——*"T. M."*—(I also learned *this* about two weeks ago.

—

Last August—after working on the case in *Seattle* and after our reports had been *written* and sent to J. Truman Nixon—I learned that, or rather it was told me, in *confidence*, that there was 'no' Tommy Atkins but that *Minnie* did not know the difference—that he was a *cousin*, and used to play around with other children—and when it came to placing the Indians on *roll* or *record*, that they simply—called him *Atkins*, and put him on record as Tommy Atkins. *Why* this should he told me in *confidence* is more, as *has* been more, than I could figure out, unless the party who told me felt that I was by *that* time a co-worker—and in sympathy with anything that spelled *"money"*—(but *not* so). I wrote discouraging letters—to Nixon—and *this* is what he *wrote* me—at the conclusion of his letter from Oklahoma City—

> Keep your courage up.
> Keep a tight upper lip.
> Keep faith in the right and our case.
> Keep thinking *twice* before speaking.
> Keep thinking we are *right* for *we are.*
> We will win.
>
> Yours very truly,
>
> J. Truman Nixon.

—

He *wired* for me to come down here (to Tulsa) to give up my school, that he had a better position for me about Oct. 1st than teaching school. After I arrived here—he told me that my reports and letters made him feel that I was a consciencious sort of a person, and they wanted to know the *truth* about everything *(our work in Seattle)* so I *told* him, all I knew—and *also* that it was told me in *"confidence"* that there was no "Tommy Atkins" etc. He gave me a *very* convincing talk, showed me photograph copies of the enrollment etc.—but still I *argued* and balked—and at one time I heard him mutter to himself, in an undertone, "Some people do not know how to help themselves"—I felt *then*, that it was meant for *my* benefit,—and yet I did not take it that way *then*, but since I learned *two* weeks ago, that Nixon himself arranged this case —himself—transformed Mooneys into Atkins' etc. I feel *certain* it was meant for my benefit *then*. Nixon gave me one of the most *sincere, confidential,* and *fatherly* talks,—when I came down here—that I felt it a *crime* to consider him anything but an *honest man*. He professed to be a Christian Scientist—and altogether he *posed* as a *real saint*. I often asked *questions* about the case, but he would *never* answer them, and I felt that I was asking questions that I had no right to ask, the reason he did *not* answer them. He made me feel cheap. I just put myself down as *not knowing what* was *proper* to *say* and *do,* in the business world, but I worried myself *sick* trying to figure things out for myself.

He had no position for me *at all* and *now* he refuses to pay me for my wasted time.

—

Returning to the Minnie Atkins subject—

"There *aint* no Tommy Atkins but Minnie don't know the difference."

That seems *strange* that Minnie would not know the difference! I infer from the remark, that Minnie was not present when the Creek Indians were being placed on record, and chances are, never knew that this *boy, (cousin),* was placed on record with the *Atkins* bunch, until the big *oil* discovery brought *Tommy Atkins* into prominence and furthermore, that *Minnie* had some children she *discarded* and they would no doubt be the age of her sisters children, but of course Minnie, having discarded them, would not know them *today* if she saw them—and *really* does *not* know if they are dead or alive—*'and' perhaps does not know,* if some one *found* her child and had him placed on record—because she left this part of the country—and *no* one knew of her where-a-bouts until they commenced the search after the oil discovery and *found*

her—after much loss of time—and a big expense,—but of course they *found* her in Seattle. Therefore, Minnie may *not* know—but, the party who told me, must have known—otherwise I do not understand, what the *object*, of telling me could have been. And *stranger still, why Nixon* should *insist*, that there was a *Tommy Atkins*, as it was his *co-worker* who told me that in confidence. Chances are, the party would *never* have told me, had the party felt that I would ever dream of taking the stand I *did* take. It is such a *long* story, and I get *so tired* telling it.

—

I am enclosing you a copy of a letter I wrote Nixon some time ago, in regard to the position etc. but he did not pay me for my *'wasted'* time since November 15th. He *did* pay me my fare money—back to Seattle. I presume he did that just to get me away from here—but I am still here.

I have *photographs* of the operatives who worked on the case in Seattle—showing dictagraph—taken right at *Minnie's home*, and Minnie with the whole bunch of us, in the *pictures*. In my many talks with Minnie—she confessed that her lawyers—*made* her swear to *lies*. That if they had let her have *her* way about it, that all this trouble could have been avoided—the disgraceful stories about *colored* Tommy Atkins and one thing or another. She said that *"now"* she has to do as her *'lawyers'* tell her etc. She said, *"Yes*, Miss Dlabol, it is *hard* when once you've done *wrong* and *lied* about things—it is *awful hard* to try to *right* things again. I have the copies of my reports—and you may have them if you so desire.

I have tried to follow Nixon's instructions out to a letter, but now I *know* he is a *crook*, and as he told me about *Minnie*. It doesn't *hurt* to *catch* a *thief*. It is *not* wrong. I feel exactly the same way toward *Nixon*.

—

That the *whole case* is a fraudulent one is as clear as day. In my many talks (confidential talks) with Minnie, and *she* disclosing to me the fact, that her lawyers tried to make her claim a *(nigger kid)* (as she expressed it)—or else that she would have to go to the *"pen"*—"but" she said they could not *make her do that*. Her words: "God! *Me*, claim a nigger kid for a *little money*—*"Not, me not yet"!* She said she never associated nor *lived* with niggers.

—

(I have *learned* since my arrival in Tulsa *"how, that story* was manufactured.)

—

Minnie also said that her lawyers are *smart men*, but

they could not make her swallow the "nigger dope." Well since they could not make her swallow the "nigger dope"—they had to get *busy*—and look for a *white "boy"*. She was very much put out about it, and said if they would have let her do as *she* wanted to—to tell the *truth* on the *start*, that all this trouble might have been avoided,—but that *"Page"* would not have it *that way*—that he was *too cute*, to do anything himself but he paid *"Long" big* money to take all these desperate chances. I said, your lawyer, Mr. Hanford, is not much of a lawyer, is he? and she said, No, Mr. *Hanford* is not much of a lawyer, *he'd* make a better *detective* than a lawyer, because whenever they send him out to get a *witness*, he always brings one back with him. I said, *why* don't you get a *good* lawyer, and she said I *did drop* him *cold*, at one time, because he stole some money from me *(her)*—but that he came back and *apologized* to her—that he bought her a $35 *bracelet* etc.—so she forgave him and took him back again. She said, you see, Mr. Hanford worked pretty hard and then he knew so much about the case, and that was the only thing that remained to be done, i. e., take him back.

The money Hanford was to have placed in the bank for her (to her credit) was $5000. *"She"* was to get the *first*, $5000—and *Hanford* was to get the *second*, $5000 (paid by the *government*, I guess)—at any rate, Hanford *kept* the *first* $5000 himself, etc.—and when Minnie went to the *bank*, to draw out some money, she learned she hadn't a *nickel* in the bank. (I think this was the cause of her falling out with Hanford, i. e., when she dropped him cold. Minnie also told me—that Mr. *Page*—had been paying her a *regular salary* before he had any *'right'* to do so, but that the salary had to be *stopped* after the big government man Allen caught them in all those *lies*—at the first trial. She said, the *salary* was paid her, on the *"quiet,"*—that she was *sorry* it had to be *stopped* but it could not be *helped* now.

(I do not know anything about the case *now*, I *mean what* anyone is doing about it,—but it seems to me more like a *dream* than anything else—and that I *just woke up.)*

In one of Mr. *Nixons* letters to me—he states, that Minnie's lawyers, are *stalling her*—about coming to *Oklahoma*, for another trial. (Minnie was always making preparations, for a *trip* to Oklahoma—was expecting word from her lawyers any minute)—that they *mean* to *throw* her when the proper time comes." Her *states* further: "If the *old thing* (referring to Minnie) had a thimble full of *horse sense*—she would come over on *our* side tell the *plain unvarnished truth*, and *save her liberty.*"

—

I could write all day—and then not tell *half* I know—and I really do not know, if *this* letter will *ever* be *considered* by *anyone, at all,* so perhaps I better bring it to a close.

Should appreciate hearing from you. I never like to start anything that I cannot *finish,* and with a foundation of *truth,* I am not afraid to *face* the *'Evil One,'* himself. I shall wait in Tulsa, for an *answer,* from you. I *did* expect to leave *Tulsa tomorrow,* but a few more days, will not matter much. I do not like to leave a battle field where I have witnessed so much injustice, without at least mentioning it to *some* one, who I feel ought to know.

Respectfully,

Albina Dlabol.

Tulsa, Oklahoma,

General Delivery.

P.S.—In speaking of *Hanford,* beating her out of the $5000—Minnie also said—God, you can't trust your own *brother* now-a-days.—"It is the *money* that talks." She said, when you've got *money*—you can *buy* all the friends you want. *And,* in speaking of winning her case she said,—We've got the *monied* men back of us, and we *can't lose—we'll win hands down."* She said you can do *anything* with money! She said, 'Page' *owns Tulsa* and *"Josey"* said he would spend his *last* nickel—to *win* this case.

Government's Exhibit A-102.

This Deed, made this 16th day of July Eighteen Hundred and Eighty Four between Gustav H. Dotter (a single man) of Leavenworth Kansas party of the first part, and Emma F'errell of the same place party of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of Three Thousand Dollars, to him in hand paid by the said party of the second part the receipt whereof is hereby confessed and acknowledged, does by these presents Grant, Bargain, Sell, Remise, Release, Alien, Convey and Confirm unto the said party of the second part, and to her heirs and assigns forever all of the following described pieces and parcels of land lying and situate in the county of Leavenworth and State of Kansas, to-wit: Lots Numbered Twenty three (23) and Twenty four (24) in Block Numbered Twenty four (24) in the City of Leavenworth Proper, Together with all the *herediments,* improvements and appurtenances thereunto belonging, or in any wise appertaining: To Have and To Hold the said premises unto the said party of the second

part, her heirs and assigns forever. And the said party of the first part, for himself and his heirs and legal representatives, does hereby covenant with the said party of the second part, her heirs and assigns, that he is lawfully seized of the premises aforesaid, and has full power to convey the same: that the said premises are free and clear of and from all encumbrances, and that He will forever Warrant and Defend the same, with the appurtenances, unto the said party of the second part, her heirs and assigns forever, against the lawful claims of all persons whomsoever, Except as to a certain Mortgage executed to Charlotte W. *Clarkins* July 11th '84 for $1000 and interest which Party of the 2d part hereby assumes and agrees to pay.

In Witness Whereof, the said party of the first part has hereunto set his hand the day and year first above written.

Gustav H. Dotter.

State of Kansas, Leavenworth County, ss.

On this 19th day of July Eighteen Hundred and Eighty four before the undersigned, a Notary Public, in and for the County and State aforesaid, came Gustav H. Dotter who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.

(Notarial Seal) My commission expires the 24th day of July, 1886. A. F. Callahan, Notary Public.

State of Kansas, Leavenworth County, ss.

The undersigned, Clerk of said County doth Certify that the property described in this deed has been entered on the transfer record in his office this 21st day of July 1884.

(Seal of County Clerk.) J. W. Niehaus, County Clerk.

By Jas McAuliffe, Deputy.

Recorded July 21st, A. D. 1884, at 10½ o'clock A. M.

C. W. Curtan, Register of Deeds.

State of Kansas, Leavenworth County, ss.

I, M. E. Howard, Register of Deeds in and for said County and State aforesaid, do hereby certify that the attached copy of Deed is a true and correct copy of the Deed Recorded July 21st, A. D. 1884, in Book Number 94 at Pages Numbered 31 and 32, and of which the same remains of record in this office.

In Testimony Whereof I, hereunto set my hand and affix the seal of this office this the 9th day of May, A. D. 1917.

(Seal) M. E. Howard, Regiater of Deeds.

Government's Exhibit A-103.

United States of America. State of Kansas, First Judicial District, Leavenworth, County, ss.

The State of Kansas, to the Sheriff of Leavenworth County, in said State, Greeting:

You are hereby commanded to notify Alonzo F. Callahan, Lily White and John Mettinger that they together with Charlotte W. Calkins and others have been sued by C. F. W. Dassler and L. G. Hopkins in the District Court, sitting in and for said County of Leavenworth and that unless they answer by the 22nd day of November, A. D. 1885, the petition of the said C. F. W. Dassler and L. G. Hopkins against them and their co-defendants, filed in the Clerk's Office of said Court, such petition will be taken as true, and judgment rendered accordingly.

You will make due return of this Summons, on the 2nd day of November, A. D. 1885.

Witness, my hand and the Seal of said Court, affixed at my office, in the City of Leavenworth, this the 30th day of October, A. D. 1885.

(Seal) John Rohr, Clerk,

By Chas. Crouse, Deputy Clerk.

I received this Summons on the 30th day of October, A. D. 1885, at 4 o'clock P. M. of that day, and I served the same Summons in my County of Leavenworth, Kansas, on the within named defendants Alonzo F. Callahan and Lily White by delivering to each of them personally a true and certified copy of this Summons with all the endorsements thereon.

And on the other within named John Mettinger by leaving a true and certified copy of this summons with all the endorsements thereon at his usual place of residence for him this 31st day of October, A. D. 1885.

D. J. Keller,

Sheriff of Leavenworth County, Kansas.

By W. W. Byers,

Deputy Sheriff.

Fees, $....; Service, $1.00; Copies, 75c; Non-Est, ...; Mileage, 25c; $2.00.

Suit brought for the recovery of Money, amount claimed, $500.00 with interest from the 1st day of August, 1884, at the rate of 8 per cent per annum and foreclosure of Mortgage &c.

C. F. W. Dassler, Attorney for Plaintiffs.

Summons Page 532 No. 9295 Docket 15 District Court Leavenworth County, Kansas C. F. W. Dassler vs. Charlotte W. Calkins et al. Issued October 30, 1885 Returnable Nov. 2, 1885 C. F. W. Dassler, Plaintiff's Attorney Filed this 31 day of October, A. D. 1885. John Rohr, Clerk. By ....., Deputy Clerk.

The State of Kansas, First Judicial District, Leavenworth County, ss.

I, Grace Fisher, Clerk of the District Court of the First Judicial District of the State of Kansas, sitting within and for the County aforesaid, do hereby certify that the above and foregoing to be a true, full and complete copy of Summons and Sheriff's return in the therein entitled cause as the same remains on file and of record in my office.

Witness My Hand, and seal of said Court, affixed at my office in the City of Leavenworth, this the 20th day of March, A. D. 1916.

(Seal)

Grace Fisher,
Clerk of the District Court.
By ....., Deputy.

Government's Exhibit A-104.

District Court of the United States, Western District of Arkansas. November Term, 1890.

Tuesday morning, 8½ o'clock, Dec. 23rd, A. D. 1890.

Court met pursuant to adjournment. Present, the Honorable Isaac C. Parker, Judge of the District Court of the United States for the Western District of Arkansas.

United States versus Nancy Adkins.—No. 813. Indictment for Taking Letters in the Indian Country.

On motion of Wm. H. H. Clayton, Esq., Attorney for the Western District of Arkansas, the said defendant Nancy Adkins was brought to the bar of the court, in custody of the marshal of said district, and it being demanded of him what he has to or can say why the sentence of the law upon the verdict of guilty heretofore returned against her by the jury in this cause on the 10th day of Dec., A. D. 1890, shall not now

be pronounced against her, she says she has nothing further or other to say than she has heretofore said:

Whereupon, there being no penitentiary in the State of Arkansas suitable for the confinement of convicts, and the House of Correction at Detroit, Michigan, having been designated by the Attorney General of the United States as a place of imprisonment for persons sentenced by this court, and the premises being seen, and by the court well and sufficiently understood, it is considered by the court here that the said Nancy Adkins for her felony aforesaid, be imprisoned in the House of Correction, situated at Detroit, in the Eastern District of Michigan, for the term and period of Eight (8) months and that he pay to the United States of America a fine of ..... Dollars, together with all their costs in and about this prosecution laid out and expended, and that they have execution therefor.

It is further considered, that the marshal of the Western District of Arkansas, to whose custody the said Nancy Adkins is now here committed, receive and safely keep and convey the body of the said Nancy Adkins hence to said House of Correction in the State of Michigan without delay, and deliver him to the custody of the keeper of said House of Correction, who will receive and safely keep the said Nancy Adkins in Jail in execution of the sentence aforesaid, and in conformity with the same, for the full period of the time aforesaid. And it is further ordered that the clerk of this court furnish the marshal of this district with two duly certified copies of this judgment, sentence and order, one of which shall be delivered to the keeper of said House of Correction, and the other returned by the marshal to this court, with a full and true account of the execution of the same.

CERTIFICATE.

I, Wm. S. Wellshear, Clerk of the District Court of the United States for the Western District of Arkansas, certify the foregoing to be a true and correct copy of the Judgment and Sentence in case No. 813, United States vs. Nancy Adkins, as the same appears of record in my said office in the Fort Smith Division of said District.

In Testimony Whereof, I hereunto set my hand and affix the seal of said court at office in the City of Fort Smith, Arkansas, this March 6, 1917.

(Seal) Wm. S. Wellshear, Clerk.

Government's Exhibit A-105.

MARRIAGE LICENSE

No. 1801.

United States of America, Indian Territory, Western District, ss.

To Any Person Authorized by Law to Solemnize Marriage—Greeting:

You Are Hereby Commanded to Solemnize the Rite and Publish the Banns of Matrimony between Mr. Henry Kessinger of Muskogee, in the Indian Territory, aged 24 years, and Miss Lela Shoemake, of Muskogee, in the Indian Territory, aged 22 years, according to law, and do you officially sign and return this License to the parties therein named.

Witness my hand and official seal at Muskogee, Indian Territory, this 3rd day of Nov., A. D. 1904.

(Seal) R. P. Harrison,
Clerk of the U. S. Court.

By Wm. R. Shackelford, Deputy.

Certificate of Marriage

United States of America, Indian Territory, Western District, ss:

I, Martin W. Robinson, a Minister of the Gospel, do hereby certify, that on the 9 day of Nov., A. D. 1904, did duly and according to law as commanded in the foregoing License, solemnize the Rite and Publish the Banns of Matrimony between the parties therein named.

Witness my hand this 9 day of November, A. D. 1904.

My credentials are recorded in the office of the Clerk of the United States Court, Indian Territory, Western District, Book C, page 207.

Martin W. Robinson,
A Minister of the Gospel.

Note—This License and Certificate of Marriage must be returned to the office of the Clerk of the United States Court in the Western District, Indian Territory, from whence it was issued, within sixty days from the date thereof, or the party to whom the license was issued will be liable in the amount of One Hundred Dollars ($100.00).

Certificate of Record.

United States of America, Indian Territory, Western District, ss:

I, R. P. Harrison, Clerk of the United States Court of the Western District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 22 day of Nov., 1904, at .... M., and duly recorded in Book ....., Marriage Record, Page .....

Witness my hand and seal of said Court at Muskogee, in said Territory, this ..... day of ....., A. D. 190..

R. P. Harrison, Clerk.

By John Harlon, Deputy.

State of Oklahoma, County of Muskogee—ss.

I, C. H. Shaffer, Court Clerk, within and for the County of Muskogee, State of Oklahoma, hereby certify that the above and foregoing is a true and correct copy of the Marriage license of Henry Kissinger & Lela Shoemake [illegible] in this matter, as the same appears of record in my office.

In Witness Whereof, I hereunto set my hand and affix my official seal at Muskogee, Oklahoma, this 2 day of May, 1917.

C. H. Shaffer, Court Clerk. (Seal)

By Lewis Price, Deputy.

Government's Exhibit A-106.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes.

Muskogee Land Office, July 16, 1902.

In the matter of the application of Mary E. Atkins, Margaret Atkins, John H. Atkins, Geneva Atkins, Nancy Atkins, James A. Atkins, Nathaniel Atkins, Annanias A. Atkins, Naoma Atkins, Leola Atkins and Bertie Atkins for enrollment as citizens of the Muskogee Nation.

Appearance on the part of the applicant, P. C. West. Attorneys for Creek Nation notified but make no appearance.

Nancy Atkins Taborn, being sworn and examined, testified as follows, to-wit:

(By Mr. West)

I wish the record to show that permission is given to include the name of Thomas Atkins as one of these applicants, a child belonging to the same woman, which seems inadvertently omitted in the written application, and also the name of Susie Atkins Taborn, daughter of Nancy Atkins Taborn, who was born prior to the original application herein, and

Albert Taborn, who was born to Nancy Atkins Taborn since the original application for enrollment was made in this case.

Permission will be granted as requested.

(By Mr. West)

Q. What is your full name? A. Nancy Jane Atkins.

Q. Nancy Jane Atkins was your name before you married? A. Yes, sir.

Q. Whom did you marry, if you are married? A. Sir?

Q. Whom did you marry, if you are married? A. Married Calvin Taborn.

Q. Then your name now is Nancy Atkins Taborn, is it? A. Yes.

Q. Who was your father? A. Richard Atkins.

Q. Richard Atkins? A. Yes, sir.

Q. Was your mother named Sarah Atkins? A. Yes, sir.

Q. Was she sometimes called Susan Atkins? A. No, sir: Sallie or Sarah: Called Sallie at home, but Sarah was her right name.

Q. Where were you living in 1895—— I will say seven years ago, probably you can't tell by the date. A. I was living at home, eight miles from Wagoner.

Q. Eight miles from Wagoner? A. Yes, sir.

Q. What direction from Wagoner—about what direction? A. West—South-west.

Q. Were you married to Calvin Taborn at that time? A. No, sir.

Q. Who were you living with? A. My mother.

Q. Was your father, Richard Atkins, dead then, or do you know the year in which he died? A. I don't know, my father ain't been dead seven years.

Q. Has not been dead seven years? A. No, sir.

Q. Then seven years ago he was living? A. Yes, sir.

Q. Then were you living with him at that time, seven years ago? A. Yes, sir.

Q. He and Susan Atkins were living together as husband and wife at that time? A. My mother?

Q. Yes. A. Yes, sir.

Q. What was the name of the oldest one of your mother's and father's children? A. Mary.

Q. Mary? A. Yes, sir.

Q. Your mother, when she testified here about three years ago gave Mary's name as Mary E. Atkins; what is that E. for, if you know? A. That's Eliza.

Q. Mary Eliza was her full name? A. Yes, sir.

Q. Has she ever married? A. Yes, sir, she is married.

Q. Whom did she marry? A. She married Julius Wilson.

Q. What was the name of the next child after Mary? A. Margaret.

Q. What did you all generally call her? A. Mag.

Q. Is she married? A. Yes, sir.

Q. Whom did she marry? A. William Parks.

Q. William Parks? A. Yes, sir.

Q. What was the name of the next one after Mag? A. John H.

Q. John H. Atkins; do you know what the H. in his name was for? A. John Henry.

Q. H. for Henry; his full name then was John Henry Atkins? A. Yes, sir.

Q. What was the next one after John Henry Atkins? A. Geneva Atkins.

Q. Is she married? A. Yes, sir.

Q. Who did she marry? A. Oscar Winn.

Q. Who was the next one after Geneva? A. Nancy.

Q. That is your self? A. Yes, sir.

Q. And you married Calvin Taborn? A. Yes, sir.

Q. You and Calvin Taborn are still living together as husband and wife? A. Yes, sir.

Q. Who was the next one after yourself, the next youngest? A. Alex.

Q. Alex? A. Yes, sir.

Q. Did Alex have any other name besides Alex? A. James Alexander.

Q. His first name was James and his middle name was Alexander? A. Yes, sir.

Q. What did you generally call him? A. Alex.

Q. What was the next one after Alex? A. Nathaniel; generally called him Nat.

Q. Nathaniel, and you generally called him Nat? A. Yes, sir.

Q. What was the next one after Nathaniel or Nat? A. Annanias.

Q. Do you know whether Annanias had any other name besides Annanias, any middle name? A. Yes, sir, Annanias Abattam.

Q. What was the next one after Annanias? A. Naoma.

Q. What was the next one after Naoma. A. Thomas.

Q. Who? A. Thomas.

Q. What did you generally call Thomas? A. Tom.

Q. Tom for short; what was the next one after Thomas? A. Leola.

Q. Leola? A. Yes, sir.

Q. What did you generally call Leola? A. Loe.

Q. What was the next one after Leola? A. Bertie.

(By Mr. Bixby.)

Q. Was Bertie ever called by any other name? A. Called Bird.

Q. Ever call her Bertha? A. No, sir, just called her Bird.

(By Mr. West.)

Q. Has Bertie ever married? A. No, sir.

Q. How old is she now; about how old? A. About eight years old.

Q. She is just a little girl, not a grown woman yet? A. No, sir.

Q. Do you recollect who was the town king of the town that your father belonged to out there, west of Wagoner?

A. No, sir, I do not recollect.

Q. Have you any idea; do you think you know of any person? A. No, sir.

Q. Don't know well enough to make any statement about it? A. No, sir.

Q. Now how old is your daughter, Susie? A. She is seven—— She is six years old.

Q. You don't know the exact date of her birth; you cannot give exact date yourself? A. Well this August—— She will be eleven years old this coming August.

Q. Can you read and write? A. I can't write.

Q. And you can't keep up with dates? If I told you a certain person was born in 1895, would you know how old they were just from that? A. No, sir, not without studying a while.

Q. How old is your other child, Albert? A. He is six months old, be seven months old the 19th of July.

Q. Are those the only children you have? A. Yes, sir.

Q. Calvin Taborn is the father of both of these children? A. Yes, sir.

Q. You have never been married to any other person than Calvin Taborn? A. No, sir.

(By the Commission.)

Q. Is your brother, Thomas, living? A. No, sir.

Q. When did he die? A. Been about four years ago or more—five.

Q. Do you know the month in which he died? A. No, sir, I don't know.

Q. Know what time of the year it was, Spring or Winter? A. In the Fall.

Q. Was four or five years ago last Fall? A. Yes, sir, about as well as I can recollect.

Q. Do you remember when the land office first opened here in Muskogee? A. Yes, sir; been about four years.

Q. Was your brother, Thomas, dead when the land office opened here. A. No, sir—— Yes, sir, he was dead.

Q. About how long before that did he die, if you know? A. About five months I——

Q. He died in the Fall before that, did he, before the land office opened? He died in the Fall and the land office opened in the Spring. The land office opened in the Spring after he died; is that correct? A. Yes, sir.

Q. You remember when your mother came down here before the Commission to see about enrolling yourself and your brothers and sisters? A. Yes, sir.

Q. Thomas died before that time, did he not? A. What do you mean, this last time?

Q. Yes. A. Oh, yes, sir, he was dead.

Q. Is your daughter, Susie, living with yourself and your husband at the present time? A. Yes, sir.

Q. You testified that you had a sister called Naoma; did you ever call her by any other name about home? A. Nom.

Q. Any other name besides Naoma and Nom; she never had any other name, did she? A. No, sir.

Q. Is she married? A. No, sir.

Q. Did they ever call Annanias any other name besides Annanias and Abattam? A. No, sir.

Q. You stated a while ago that the names of your brothers and sisters were Mary, Mag, John Henry, Geneva, Thomas, Alexander, Nathaniel, Nancy, Naoma, Leola and Bertie: Are they all living at the present time? A. Yes, sir.

Q. Did you ever have a brother or sister by the name of Amanda, or some such similar name? A. No, sir.

Q. Do you know of any of your brothers or sisters that may have been called by such name as Amanda? A. No, sir.

Cora Moore, being duly sworn, states, that as stenographer to the Commission to the Five Civilized Tribes she reported in full the testimony and proceedings in the above case, and that the foregoing is a full, true and correct transcript of her stenographic notes in said case.

Cora Moore.

Subscribed and sworn to before me this 17th day of July, 1902. Tams Bixby.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land in said tribes, and that the above and foregoing is a true and correct copy of testimony dated July 16, 1902, in re enrollment of Mary E. Atkins et al. as citizens of the Creek Nation.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.

May 11 1917 JRP

Government's Exhibit A-107.

Form C 28 145

Tel No. Account No.

..... Exchange

Mr. ..... For Toll, Telegram and Messenger service for ..... 191.. $.....

..... Collected by .....

Date ..... 191..

—

A

Nowata Exchange.

Mr. Yarbough F

.....

Account No. 422 Telephone No. 160

To PIONEER TELEPHONE AND TELEGRAPH CO. Dr.

For Toll, Telegram and Messenger service for the month of Sept. 1914

Date, 21; Party Calling, Yarbough; Party Called, O'Connor; Destination, Tulsa; Pioneer Tolls, 35c; A T & T Co. Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, 35c.

Date, 25; Party Calling, Whitiker; Party Called, 135; Destination, Cofk; Pioneer Tolls, 25c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, ...

Date, 25; Party Calling, Yarbough; Party Called, White; Destination, Coweta; Pioneer Tolls, 50c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, ...

Date, 25; Party Calling, Whitiker; Party Called, Paige; Destination, Tul; Pioneer Tolls, 35c; A T & T Co Tolls, ...; Telegrams, ...; Mesgr. Ser., ...; Total, $1.10.

Pioneer Tolls, $1.45; Total, $1.45.

Government's Exhibit A-109.

Telephones: Day, Main 6440; Night, North 5953, West 1513 R. H. W. Reed Bonded. Reference: Headquarters Metropolitan Police Expert Dictograph Service.

REED'S DETECTIVE AGENCY
(Established 1885)
400 Fifth Street N. W.

Washington, D. C., September 29th, 1914.

Mr. Dennis Jones,
Leavenworth, Kansas.

Dear Sir:

Your's of the 27th instant was duly received this A. M. and contents noted. In reply thereto we will say that we furnished Mr. Greenslade with the names of the people in Chicago, who probably could give the history of the Thomas Atkins, which was furnished by the woman you referred to in your letter. The address in Chicago is Samuel Ambler, Keystone Hotel, Chicago, Ill. I, also, forwarded a letter to Mr. Duvall, which I received from the Pullman Company, stating that they never had a man in their employ, by the name of Thomas Atkins. I was just talking to Mr. Viett, the chief Terminal Detective of this city, and he informed me that they had been unable to locate anybody working for the roads answering the description of Thomas Atkins.

If I should ever have any business at the Leavenworth Penitentiary, or if my friends should, I will remember you.

Trusting that this will meet with your favor, I am

Very respectfully,

Wm. D. Allen, Jr.

Government's Exhibit A-110.

LAST WILL AND TESTAMENT OF CHARLES LANE.

I, Charles Lane of Leavenworth County in the State of Kansas, being of sound mind and memory, do make publish and declare this to be my last will and testament, to-wit:

First. All my just debts and funeral expenses shall be first fully paid, then I give devise and bequeath to my son John Lane the sum of Five dollars ($5.00).

Second. I give, devise and bequeath all the rest, residue and remainder of my estate, both real and personal, to my beloved wife Sadie Lane, the said real estate consists of one

small house and two or more lots situated thereon in the town of Odessa LaFayette County in the State of Missouri and all other real property owned by me at the time of my death, a part of the personal property above bequeathed herein consists in part of one promissory note secured by a trust deed now in the bank in Odessa Missouri (The Citizen's Bank of Odessa Mo.) and all other personal property and effects owned by me at the time of my death, all of which I give, devise and bequeath as herein before stated to my beloved wife Sadie Lane with the full right to sell and convey any part or all of said estate at will.

Third. I nominate and appoint Dennis Jones, Attorney at Law of Leavenworth Kansas to be the executor of this may last will and testament revoking all former wills by me made, no bond to be required.

In Witness Whereof, I have hereunto set my hand and seal by mark this .... [illegible] day of November, A. D. 1913.

his

.....

mark

Signed, sealed, published and declared as and for his last will and testament by the above named testator, in our presence, who have, at his request, and in his presence, and in the presence of each other, signed our names as witnesses thereto.

.....

.....

(On back:) Copy of the Last Will and Testament of Charles Lane.

Government's Exhibit A-111.

Saml Dodsworth Book Co., Legal Blank Publishers, Leavenworth, Kan. No. 10162

CERTIFICATE OF DEPOSIT OF WILL.

State of Kansas, Leavenworth County, ss.

I, Thomas L. Johnson, Probate Judge in and for said County and State, do hereby certify that Sadie Lane did, on the 21st day of November, A. D. 1913, deposit in the office of the Judge of the Probate Court of said County, in the County Court House in the City of Leavenworth, in said County, an instrument of writing purporting to be the Last Will and Testament of Charles Lane of said County.

In Witness Whereof, I have hereunto set my hand and official seal, this 21st day of November, A. D. 1913.

(Seal) Thomas L. Johnson,
Paid $1.00 Probate Judge.
(On back:) Receipt for Will

Government's Exhibit A-112.

File Minnie Atkins XA

THE RAINIER-GRAND HOTEL
Wilson & White Hotel Co.
Chas. Perry, Mgr.
Seattle

1

Born.....1864
To Tallahasse Mission, 15 yrs of age..... 15

To Tallahasse.....1879
1 year at Tallahasse and 2 yrs at Carlyle..... 3

Date went to Leavenworth.....1882
Worked 4 years..... 4

1886
Boy born few mos. later in 1886 or 1887, and Minnie stayed 1 year after birth..... 1

1887
Balance of year between Leavenworth and Ft. Logan.... 1

Around Ft. Logan.....1888
At Ft. Logan 6 years..... 6

Went to Oklahoma.....1894

[Page 2—hotel letterhead as above.]

1894
In Oklahoma 2 years..... 2

Back to Ft. Logan.....1896
2 years there in Ft. Logan..... 2

Latter part of this year went to Ft. Wayne.....1898
3 years and over at Ft. Wayne..... 4

To Vancouver Barracks.....1902
At Vancouver Barracks..... 8

In Philippines in 1908.....1910
3 yrs at Ft Harrison..... 3

Came Seattle.....1913

Government's Exhibit A-113.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Okmulgee, Ind. Ter., July 21, 1902.

In the matter of the application of Mary E. Atkins, Margaret Atkins, John H. Atkins, Geneva Atkins, Nancy Atkins, James A. Atkins, Nathaniel Atkins, Annanias A. Atkins, Naoma Atkins, Leola Atkins and Bertie Atkins, Thomas Atkins, Susie Atkins Taborn and Albert Taborn, for enrollment as citizens of the Muskogee Nation.

Appearances: On the part of applicant, P. C. West.
On the part of the Creek Nation, A. P. McKellop.

Sallie Atkins, being first duly sworn, testified as follows:

By the Commission (Mr. Bixby):

Q. What is your name? A. Sallie.
Q. Sallie what? A. Sallie Atkins.
Q. How old are you? A. I am about forty-eight or nine.
Q. Where do you live? A. I live out south of Okmulgee.
Q. Indian Territory? A. Yes, sir.
Q. How long have you lived in the Creek Nation? A. I have been here, I reckon, about going on twelve years.
Q. Where did you live before that? A. I used to live in Missouri.
Q. Are you a member of the Creek tribe? A. Yes, sir.
Q. A slave before the war? A. No, sir; I was just—just about a year, I reckon, I was a slave that much.
Q. Whose slave were you? A. Porter's.
Q. What was Porter's other name? A. William Porter.
Q. Was he a Creek Indian? A. He was a white man.
Q. Where did he live? A. He lived in Missouri. He is dead.
Q. Do you know these applicants? A. Yes, sir.
Q. Whose children are they? A. They are mine.

Q. How many children have you? A. Eleven.

Q. What are their names, giving the oldest first? A. Mary Eliza, short name was Mary. Marget, short name was Mag. John Henry, short name was Henry. Genevia, short name was Nave. Nancy Jane, short name was Nancy. Nathaniel, short name was Nat. James Alexander, short name was Alex.

Q. Well, did Alexander have any other name than Alexander, or Alex- A. Alex. Annanias Abatan, always called him Annanias. Thomas, short name was Tom. Neoma, short name was Nom. Leola, short name called her Lo. Berdie, short name was Bird.

Q. Do you know Susie Atkins Taborn? A. Yes, sir. She was my grandchild, daughter. Daughter of Nancy Taborn.

Q. Your daughter, Nancy, then is married? A. Yes, sir.

Q. Who was she married to? A. Taborn.

Q. What Taborn? A. Calvin Taborn.

Q. Do you know Albert Taborn? A. Yes, sir.

Q. Who was he? A. That was my grandchild.

Q. Who was his mother? A. Nancy Taborn.

Q. Are all these children and grandchildren living? A. All but Thomas.

Q. And he is dead, is he? A. Yes, sir.

Q. When did he die? A. About four years ago.

Q. Did he die before the land office opened in Muskogee, do you remember? A. Well, now I just can't remember whether he did or not.

Q. Is there any other way you can fix it—is there any event that you remember that happened about the same time as his death—you remember when the land office opened at Muskogee, don't you? A. Yes, sir.

Q. Well you are quite sure that he has been dead more than three years? A. Oh Lord, yes.

Q. Do you know who drew the money for these applicants in the payment of '95? A. Dick Atkins.

Q. Did he give the children's names in to the office that was paying out the money and making the roll? A. Yes, sir.

Q. Who is Dick Atkins? A. Well he is dead.

Q. Well, I know, but who was he then? What relation was he to these people—what kin? A. Father.

Q. Your husband? A. My husband.

Q. Was he a Creek? A. Yes, sir.

Q. Did you ever have a child by the name of Amanda? A. No.

Q. Did you ever have a child by the name of Viola? A. (Shook her head indicating "No.")

Q. None of your children have gone by the name of

Amanda or Viola? A. Nothing but Leola and Neome, and the names are pretty near alike, but then they are that much, there is a Leola and Neome.

Q. At the time of this last payment of '95, the $14.40 payment, how many children did you have living? A. They were all living but this boy I told you was dead.

Q. Do you know how many there were? A. Why there was eleven children, I named eleven, but Tom made twelve when he was living.

By the Commission (Mr. Hopkins):

Q. Do you remember when the fourteen dollar payment was made, the last payment of the Creek Nation? A. Yes, sir.

Q. Was Nancy married at that time? A. (No response).

Q. Can you remember whether or not she was married? A. I am a studying.

Q. Well, how old is Susie, her oldest child? A. She is six years old.

Q. Did she have any children other than Susie? A. No, sir; Susie is the baby. She is six years old.

Q. How many of your other children are married now? A. Four.

Q. What are their names? A. Mary, Margaret, Nancy, May, four girls.

Q. Can you remember whether any of them were married at the time the $14.40 was made? A. Well all of three of them was, that was Mary, Margaret and Nave.

Q. You don't know whether Nancy was married at that time or not? A. I was just studying whether she was or not.

Q. They had homes of their own when the fourteen dollar payment was made? A. Yes, sir; if my man was here he could tell all about it.

Q. Is Nancy older than Thomas? A. Yes, sir; Thomas was next to Leola.

Q. You said that Nancy's child, Susie, was about six years old? A. Yes, sir.

Q. Do you know how long she was married when Susie was born, about how long? A. She was married, I think, a very little over two years when Susie was born.

Q. You don't claim to be a citizen of the Creek nation yourself, do you? A. The children does.

Q. But yourself, you don't claim for yourself, do you? A. Yes, claim for myself.

Q. In what way? A. Why by marriage.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of testimony dated July 21, 1902, in re enrollment of Mary E. Atkins et al. as citizens of the Creek Nation. Pages 1 and two.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.

May 11 1917 JRP

Government's Exhibit A-114.

Refer in reply to the following:
Land. 72295-1905

Copy

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,

Washington, December 18, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated September 7, 1905, transmitting the record of the application for enrollment as citizens by blood of the Creek Nation, by Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, Nancy Atkins Taborn, Susie Atkins Taborn and Albert Taborn.

Under no date the Commissioner decided favorably to Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn and Susie Atkins Taborn and adversely to Albert Taborn and Thomas Atkins, deceased.

The record shows that on November 13, 1902, the Commission to the Five Civilized Tribes denied these applicants enrollment and that on January 24, 1903, the decision was affirmed by the Department; that on May 19, 1904, the Department rescinded its action and remanded the case for readjudication in the light of the Chaney Trent et al. case (a sister of the principal applicants herein).

The record further shows that Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, and Nancy Atkins

Taborn are the adult children of Sarah Atkins, a non-citizen, and Richard Atkins, who was recognized as a citizen by blood of the Creek Nation, by Act of its Council; that Susie Atkins Taborn and Albert Taborn are the minor children of Nancy Atkins Taborn; that Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, and Nancy Atkins Taborn are identified on the 1890 authenticated tribal roll of the Creek Nation, and on the list of persons stricken from the rolls by the Committee of Eighteen; that on June 8, 1895, the National Council of the Creek Nation passed a resolution that the names of Nancy Atkins (now Taborn) and Susie Atkins (nee Taborn) be added to the roll of Arkansas colored town; that Mary E. Wilson, Thomas Atkins, deceased, Geneva Atkins Winn, Nancy Atkins Taborn and Susie Atkins Taborn are identified on the 1896 Census Roll prepared by the town officers of the Creek Nation, and that the roll was never authenticated by the Council of the Creek Nation.

It further appears that Mary E. Wilson, Thomas Atkins, deceased, Geneva Atkins Winn, and Nancy Atkins Taborn, were residents of the State of Missouri at the time of admission of their father, Richard Atkins as a Creek citizen, and that they did not remove to the Creek Nation until after the preparation of the 1890 authenticated roll. It is further shown that Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn, and Susie Atkins Taborn were residents of the Creek Nation, June 28, 1898, and that they were living on July 5, 1905; that Thomas Atkins died prior to April 1, 1899, and that Albert Taborn was born subsequent to May 25, 1901, and that he is not the child of a citizen of the Creek Nation, whose enrollment has been approved by the Department prior to March 3, 1905.

In view of the record the approval of the Commissioner's decision favorable to Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn and adversely to Albert Taborn and Thomas Atkins, deceased, is recommended.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

M.M.M.—NL.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and

that the above and foregoing is a true and correct copy of a copy of Departmental Letter dated Dec. 18, 1905, transmitting record in re enrollment of Mary E. Wilson et al. as citizens of the Creek Nation.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.

May 11 1917 JRP

Government's Exhibit A-115.

J.P.

DEPARTMENT OF THE INTERIOR,
Washington. LLB

I.T.D. 17676-1905. December 29, 1905.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

September 7, 1905, you transmitted the record in the matter of the application for the enrollment of Mary E. Wilson, Geneva Atkins Winn, Thomas Atkins, deceased, Nancy Atkins Taborn, Susie Atkins Taborn, and Albert Taborn, as citizens by blood of the Creek Nation.

Reporting December 18, 1905, the Indian Office recommended that your decision, enrolling Mary E. Wilson, Geneva Atkins Winn, Nancy Atkins Taborn, and Susie Atkins Taborn, and denying enrollment to Thomas Atkins, deceased, and Albert Taborn, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation and your decision dated September 5, 1905, is hereby affirmed.

Respectfully,

Thos. Ryan,
Acting Secretary.

1 inclosure.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Departmental Letter dated Dec. 29, 1905.

JOE H. STRAIN,
Acting Superintendent for the Five Civilized Tribes.

May 11 1917 JRP

Government's Exhibit A-8.

POWER OF ATTORNEY.

Know All Men by These Presents:

That Charles Lane of Leavenworth, County of Leavenworth, State of Kansas has made, constituted and appointed, and by these presents does make, constitute and appoint Mrs. Sadie Lane (my wife) of Leavenworth County of Leavenworth and State of Kansas my true and lawful attorney, for me and in my name, place and stead, to attend to all business for me and in my name and write all letters for me and sign my name thereto and also to sign and attach my name to any and all papers Bank Checks and other instruments of writing and to sell and convey by deed all of my estate both real and personal, and fix and sign my name to such instruments of writing as may be necessary so to do in making such conveyance thereby giving and granting, unto my said Attorney, full power and authority to do all, each and everything not herein mentioned that she may deem necessary in carrying out authority given her by this instrument and to do each and everything as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said Attorney or her substitute shall lawfully—or cause to be done by virtue thereof.

In Witness Whereof, I have hereunto set my hand and seal, this 20th day of November, A. D. 1913.

his
Charles X Lane (Seal)
mark

Witness to mark
Sennis Jones.

State of Kansas, Leavenworth County, ss.

Be it remembered, That on this 20th day of November, A. D. 1913, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Charles Lane, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my Notarial seal the day and year last above written.

Dennis Jones,
.....

Commission expires March 28th, 1915.

Recorded on the 20th day of November, A. D. 1913, at 3:00 o'clock P. M. J. H. Jeffries, Register of Deeds.

State of Kansas, Leavenworth County, ss.

I, M. E. Howard, Register of Deeds in and for the County and State aforesaid, do hereby certify that the attached and foregoing copy of Power of Attorney recorded in Book 206 at page 432 is a true and correct copy of the records of which the same remains in my custody in this office.

In Witness Whereof I have hereunto set my hand and affixed the seal of this office on this the 14th day of May, A. D. 1917. (Seal) M. E. Howard,
Register of Deeds.

GOVERNMENT'S EXHIBITS TO DEPOSITIONS.

Government's Exhibit 1.

Eq. 2131.—U. S. vs. Atkins et al.

[Portion of Grodevant record of expense covering the period of time beginning with the 1st of October, 1884, and ending with the 1st of October, 1885.]

1884		Forward	754.41	958.65
Oct	1	Nov pay		100.00
"	2	Lettie	5.00	175.00
"	4	Whiskey	2.00	
		2 Pr drawers 1.00 & 3 H'dk'chfs	2.00	
"	8	Draft for deposit	400.00	
		Exchange	.50	
"	4	F J G		20.00
"	9	do		20.00
		Bary Bowman	4.00	
		Lettie for Sheets 3.50 & House 2.50	6.00	
"	10	K C Times	.25	
		Postage	.50	
		Bale hay	.50	
		Curtains 2	2.30	
"	24	House	3.00	
		To town 10c Marshmallows 60c	2.00	
"	22	Minnie Atkins (Oct 14)	2.00	
"	25	Harness, comb & c comb	15.25	
"	31	Minnie Atkins	5.00	
		Grocery bill	19.95	
		Meat "	3.20	
		2050 lbs. hay 9.00	9.25	
		Oct pay		100.00
			1235.71	1373.65

1884		Forward	1235.71	1373.65
Oct	31	Lettie 5.00 House 2.00	7.00	
Nov	1	Bazar	.50	
		50 Cigars, Home Circle	3.00	
		¼ ream note paper	.50	
"	2	Times	.05	
"	3	To & from town	.30	
"	4	Postage stamps	.50	
"	—	Clarence & Fred, Frank	5.00	5.00
"	15	Minnie Atkins 7.00 & 3.00	10.00	
		4 Pr Stockings	2.50	
		Register & C plate	3.50	
		Whiskey	2.00	
		1 Doz chickens	4.00	
"	21	2 Pr Drawers No 34	4.00	
		2 " Wrappers No 38	4.00	
		Lettie present	1.50	
"		2 lbs. Tobacco	.90	
"	23	Paper	.05	
"	24	Frank		20.00
		10 nest eggs	.50	
"	29	Nov pay		100.00
		Frank		20.00
		Coat, vest, 2 pr pants	57.00	
		Express 1.00, exchange 15c	1.15	
			1343.66	1518.65
1884		Forward	1343.66	1518.65
Nov	29	Minnie Atkins	3.00	
		Meat bill	4.75	
		To town	.07	
		Roast pork	.55	
		Glycerine	.20	
"	27	To town	.10	
		50 Cigars	3.00	
"	29	Lettie	15.00	
"	27	Pr shoes	4.00	
		Onions	.20	
Dec	1	Nov Grocery bill	27.53	
		Bazar	.50	
		Army & Navy Register to April 1st 4 mo	1.00	
"	12	½ Gall whiskey	2.00	
		Hand bag, mother	2.25	
		Minnie Atkins	6.50	

"	14	Leav Times	.05	
		House	2.00	
		Carpentry & Building 1885	1.00	
"	20	2 Pr skates 2.10 1.50	3.60	
		Shears 65c Scissors 40c	1.05	
		Lemons 40c Oranges 50c Grapes 40c	1.30	
		To & from town	.30	
		Minnie Atkins	6.50	
			1430.11	1518.65
1884		Forward	1430.11	1518.65
Dec	24	Orphans	1.00	
		Postage	1.00	
		Scarf 60c Cologne 75c	1.35	
		Picture	9.00	
		Dictionary 12.00, Stand 1.00	13.00	
		Harpers Magazine & Bazar: Mf'g & B'd 1885	8.40	
		Thermometer 20c; cards 30c	.50	
"	27	50 Cigars 3.00 Pipe 50c	3.50	
		Hat	2.50	
		To balance	1.00	
"	30	Lettie, on a bet	1.00	
"	31	20 bu corn 30c	6.00	
		Dec pay		100.00
		Meat bill	4.74	
		Leav. times 75c Bazar 40c	1.15	
Jan	2, 85	Grocery bill, Dec	26.75	
Dec	25	Present, Mrs. B. & Nellie	3.55	
Jan	1	Cap 3.00 from town 10c	3.10	
		Lettie	10.00	
		8 lbs butter 30c	2.40	
"	5	Lettie	5.00	
"	6	2 lbs Tobacco	.90	
"	9	Whiskey 2.00 Sherry 1.00	3.00	
		Soap	.40	
			1539.35	1618.65
1885		Cash Jan'y 10		79.30
Jan'y	10	House	1.00	
"	12	Lozenger	.25	
"	14	Frank		55.00
"	24	No. 271	10.00	

		1 Doz shirt buttons	.45	
		Laundry	.10	
"	31	January pay		100.00
		Minnie Atkins	12.00	
		Meat 3.90 1 Bu Potatoes 40c	4.30	
		9 lbs. butter 30c	2.70	
Feb	2	Kansas City Times	.75	
		Lettie	10.00	
		Grocery bill	26.55	
		Wood worker, 1885	1.00	
		Pr rubbers	1.00	
		Whiskey	2.00	
"	2	10 Gall Head light oil	2.00	
		Postage stamps	.58	
"	3	To & from town	.30	
		½ Doz Handkerchiefs & house	4.00	
		Bale hay	.55	
		1340 lbs " 50c per C	6.70	
"	9	2½ Gall wine	2.50	
"		8 lbs butter 30c	2.40	
			91.13	234.30
1885		Forward	91.13	234.30
Feb	24	Binding Picturesque America	11.00	
"	25	½ Gall whiskey	2.00	
		2 lbs. Tobacco	.90	
"	—	Raffle, Ripleys music box	1.00	
"	28	Feb meat	3.17	
		Minnie Atkins	12.00	
		Feby pay		100.00
		Lettie	10.00	
		Grocery bill	24.15	
Mch	2	Cod Liver oil	1.00	
		Kansas City Times, Feb	.75	
"	3	Frank Feby board		15.00
"	4	Postage	.10	
"	6	Stove plates	2.00	
"	7	No. 218	5.00	
"	12	1 Ton bran	12.00	
"	14	½ Gall Whiskey	2.00	
		T. J. G. Mch board		15.00
		Postage	1.00	
"	16	Cigars	2.00	
"	28	Garden seeds	10.00	
		2½ Galls whiskey	10.00	

"	21	H Edwards & self	.50	
		Lettie	2.00	
			194.45	364.30
1885		Forward	194.45	364.30
Mch	31	March pay		100.00
		Meat bill	4.64	
April	1	Grocery "	25.30	
		Butter, 10½ lbs. @ 30c	3.15	
		Minnie Atkins	12.00	
		Lettie	10.00	
		Kansas City Times	.75	
"	10	Mr. Dana on horse	80.00	
"	11	2 fares Leav to Topeka 1.68	3.36	
"	13	Car fare & papers	.30	
"	10	Milk	.30	
"	13	2 fares Topeka to Leav	3.36	
"	18	Laundry	.18	
"	13	Buss fare, 2	.20	
"	11	Cosmetic	.25	
		Suspenders, collars & Lettie	3.00	
"	30	Clover seed	.40	
		Butter 11 lbs 30c	3.30	
		Meat bill	4.13	
		Grocery "	19.90	
		April pay		100.00
		F. J. G. on April board		10.00
		Fort L School house	5.00	
		Minnie Atkins	10.00	
			383.97	574.30
1885		Forward	383.97	574.30
April	30	Lettie	10.00	
		Eggs	.25	
		Kansas City Times	.75	
May	4	Shoes heeled and topped	1.75	
"	6	10 Gall H L oil	2.50	
		Freight on Sugar, 30 P'ls	14.50	
		Plants	.50	
"	10	Sponge 35c & Chamoise 90	1.25	
		Plants	.50	
"	15	Lettie	5.00	

" 16	9 Pails sugar, 4.25		38.25
	Insect powder gun	.15	
	Ft Leavenworth guide	.50	
	Hay		
	Draft & exchange	90.15	
" 18	50 Cigars	3.00	
	1 lb. Smoking tobacco	.55	
	Postage stamps	.50	
	Towards present, Mother	1.00	
" 22	541 Tom Weaver	5.00	
" 23	Lettie, for House—Dishes	2.00	
	14 Eggs B & W Leghins	2.00	
	Lap robe	2.00	
	4 qt measure	.35	
		528.17	612.55
1885	Forward	528.17	612.55
May 22	4 Pails M Sugar Dr Wright		17.00
" 23	Bay rum	.75	
" 30	House	1.00	
	Maple sugar		8.50
	½ doz each knives, forks & spoons, (table)	10.00	
	Glass ware & salt cellar	2.30	
	Straw berries	.15	
	1 Gall Sherry	3.50	
	Postage stamp	.02	
	Minnie Atkins	10.00	
June 1	K C Times	.75	
	Meat bill	3.97	
	Maple sugar		17.00
	Grocery	26.00	
	Lettie	10.00	
" 2	Minnie Atkins	1.00	
	Hat 75c 2 corks 15c	.90	
	House	4.00	
" 1	May pay		100.00
May —	1 Sack oats	1.00	
June 6	Pr shoes	4.00	
	3 Pr. drawers 75c	2.25	
" 13	To town, Dana horse	.20	80.00
		609.96	835.05

1885		Forward	609.96	835.05
June 14		½ Int in horse (Mollie) & Carriage	144.50.	
		Frank ½ bag oats (bot may)		.50
		" 1 Pail M sugar		3.50
		" Bal April May & June bd		35.00
		" ½ Price of Lap robe		1.00
"	—	7	2.00	
		2 lbs. Tobacco	.95	
		Box cigars	3.00	
		2 Steel traps	.50	
"	—	Maggie 500 & 150	5.00	
		Stamped wrappers	.24	
"	30	June pay		100.00
July	1	Meat bill	7.62	
		Col Blunt		25.35
		Com's'y bill	10.35	
		Minnie Atkins (5.00 on July)	10.00	
		Lettie	10.00	
		Kansas City Times	.75	
		House	5.00	
		Envelopes	.75	
		Insect powder	.25	
		Mane comb	.25	
		Grocery bill June	20.26	
		Sack oats	1.80	
			833.18	1000.40
1885		Forward	833.18	1000.40
July	7	5 Bu oats 40c	2.00	
"	12	Straw hat	1.25	
"	7	Box cigars	3.00	
		Smoking tobacco	.30	
"	25	House	5.00	
		3 Gall wine	3.00	
		Corks	.60	
"	31	July pay		100.00
"	25	10 Bu oats, 1 Bale hay & F J G	4.70	4.25
"	31	Meat bill	8.12	
		Kansas City Times	.75	
		Minnie Atkins to Balance	5.55	
		¼ ream note paper	.75	
		Repaires on carriage x——x	.30	.15
Aug	1	Grocery bill	20.00	
		1755 lbs Hay (over) Com's'y Bill —Col Blunt	8.16	29.16

		Lettie.	11.00	
"	2	F J G on July board.		10.00
"	6	Postage stamps.	.50	
"	7	* Tobacco 90c Harness pad .75 F. J. G. 75.	1.65	.75
		House.	10.00	
"	13	2 Night shirts.	1.50	
"	17	Cigars.	3.00	
			924.31	1144.71

*Horse shod

1885		Forward.	924.31	1144.71
Aug	17	Frank, Bal July & Aug bd.		20.00
"	19	"Frankie Wilcox".	125.00	
"	27	4¼ bu oats 25c.	1.10	
"	28	Anchor of Flowers, Gogoo.	2.50	
"	27	Cocoaine 1.00 Cosmetic 15c.	1.15	
"	31	Grant Monument	1.00	
		1755 lbs Hay @ 9.00 per ton.	7.90	
		Meat bill.	4.32	
		Grocery bill.	15.35	
		Kansas City Times.	.75	
Sept	1	Groceries, Brewsters.	12.75	
Aug	31	Aug pay.		100.00
		Minnie Atkins.	10.00	
		Lettie.	10.00	
Sept	5	1000 lbs. Bran.	5.50	
		1000 lbs. Shorts.	6.50	
		500 lbs. Corn meal.	5.00	
"	9	3 Flannel shirts m'tl.	6.75	
		Repairing clock.	1.50	
		2 lbs. Tobacco.	.90	
		Steel trap.	.25	
		Service "Cicero" "Frankie". . . .	2.00	
		Walter Kingsley.	.25	
			1144.78	1264.71

1885		Forward.	1144.78	1264.71
Sept	12	2 bu oats.	.60	
"	15	231 John Gettings.	5.00	
		Minnie Atkins.	5.00	
"	17	Cigars.	3.00	
		House.	2.00	

"	19	Car fare	.05	
"	17	Mollie shod, Prison		
"	29	4 bu Oats	1.00	
		Mollie shod by McGlynn		
"	26	Charity	.20	
		2 Pr Suspenders	1.00	
		House cleaning & washing	3.00	
"	29	1670 lbs. Hay @ 45c equal 7.51	7.40	
"	30	Sept Pay		100.00
		Meat bill	2.68	
		Grocery bill	10.58	
		K C Times	.75	
		Scales	3.25	
		Lettie	10.00	
		Bossy 35.00 Bran 55 shorts 65 Mr K		36.20
Oct	1	Mr Kingsley Bran 55c Shorts 65c		1.20

Government's Exhibit 1.

Read 2-24-15.—Eq. 2131.

In the United States District Court for the Eastern District of Oklahoma. The United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—No. 2131.

AFFIDAVIT OF EDWARD MERRICK.

State of Oklahoma, County of Muskogee—ss.

I, Edward Merrick, being first duly sworn upon oath state: That I am an employee and clerk in the office of the Superintendent for the Five Civilized Tribes and have been since the creation of said office; that prior thereto I was a clerk in the office of the United States Indian Superintendent, Union Agency, beginning August 29, 1911; that prior thereto I was a law clerk in the office of the Commissioner to the Five Civilized Tribes and held said position from the date of the creation of said office; that prior thereto, from March 4, 1901, to sometime in November, 1901, I was a clerk and employee in the office of the Dawes Commission, and from November, 1901, to the time of the discontinuance of the Dawes Commission, I was a law clerk in said office; that on March 4, 1901, I entered upon the discharge of my duties in the office of said Dawes Commission and about three weeks thereafter my work was in connection with the enrollment of citizens of the Creek Nation or Tribe of Indians; that I continued actively in connection with the work of the enrollment of Creek citizens for a period of about two and one half years; that I

am the employee of said office who listed for enrollment as a citizen by blood of the Creek Nation, the name Thomas Atkins, who is enrolled opposite roll number 7913, on census card No. 2707, field No. 2774, a true copy of which census card is hereto attached and made a part of this affidavit.

That I listed said name for enrollment at Okmulgee, in what was then the Indian Territory on the 23rd day of May, 1901; that the name of said Thomas Atkins had not previously been listed for enrollment, nor had there been any record made up to that time in the office of said Commission showing the name of said Thomas Atkins in any way as a citizen entitled to be enrolled or otherwise concerning him, and that the evidence had by me at that time on the question of citizenship and which induced the enrollment of the name of the said Thomas Atkins so far as citizenship was concerned, consisted of a certain pay roll which had theretofore been made in the year 1895, the same being what was denominated the authenticated 1895 roll of Creek citizens, which said roll was used and relied upon by said Commission and by myself as the representative of said commission in enrolling the name Thomas Atkins, as aforesaid;

After careful search therefor, I find no memorandum or notation of any sort in the office of the Dawes Commission, where all such matters are kept, indicating in any way that evidence or information was had or received by said Commission on the question as to whether Thomas Atkins was living or dead on the 1st day of April, 1899, and I have no recollection of there having been any evidence produced to or had or received by myself or said Commission on that question, although somebody, who it was I cannot recall, gave me information as to about the time of alleged birth and parentage of said Thomas Atkins. The said listing for enrollment consisted in making the entries on the census card, a copy of which is attached hereto as aforesaid. All the written entries made thereon are in my handwriting and were made by me save and except the entry with reference to a letter of May 9, 1905, the writing of the word "town" as it appears in three places thereon and the making of the field number 2774, and the roll number appearing in the stamped notation as to the date of the approval of the enrollment, and the letter "L" and number "1" forming a part of the notation as to the issuance of citizen certificate; that said things were done by me under the supervision of the members of the Dawes Commission; that the proceedings relating to the enrollment of the said Thomas Atkins were ex parte and without any adverse proceedings and there was no appearance entered by or on behalf of the Creek Nation or any other per-

son adversely or otherwise; that the final roll of citizens by blood of said tribe in so far as the same shows the name of Thomas Atkins opposite roll No. 7913, was made up from the said census card under my personal supervision, and compared and reviewed by some member of the Commission, and the enrollment thus made was approved by the Secretary of the Interior on March 28th, 1902; that no further or additional evidence or information as to the question as to whether the said Thomas Atkins was living on the first day of April, 1899 appears from any records, document, or memorandum in the office of said Commission, to have been produced or had subsequent to the date of said listing for enrollment on May 23rd, 1901, and prior to or on the date of the approval of said enrollment on March 28, 1902, nor have I any recollection of any evidence or information on that question having been produced to or had by said Commission during said time; that in reliance upon said enrollment of the name of Thomas Atkins opposite said roll number 7913 patents were issued and executed by the Principal Chief of said Creek Nation and said patents were approved by the Secretary of the Interior and filed for record in the office of the Commissioner to the Five Civilized Tribes, and that there is no record, evidence or memorandum in the office of said Commission showing or tending to show that subsequent to the approval of said enrollment and prior to the recordation of said patents, whether or not said Thomas Atkins was living or dead on the said 1st day of April, 1899, and I have no recollection of any evidence or information on that question having been produced to or had by said Commission. That said allotment was arbitrarily made without application therefor being made, as is shown by the fact that the letter "L" appears on said census card.

Edward Merrick.

Subscribed and sworn to before me this 25th day of February, 1915.

F. H. Walkup,
Notary Public.

(Seal.)

My Commission expires May 13, 1917.

[See insert herewith for reproduction of photostatic copy of Creek Census Card on which appears the name of Thomas Atkins, Roll No. 7913, which is a part of Government's Exhibit 1.]

(On back:) No. 2131. In the U. S. District Court for the Eastern District of Oklahoma. United States of America, Complainant, vs. Minnie Atkins, et al., Defendants. Affidavit of Edward Merrick.

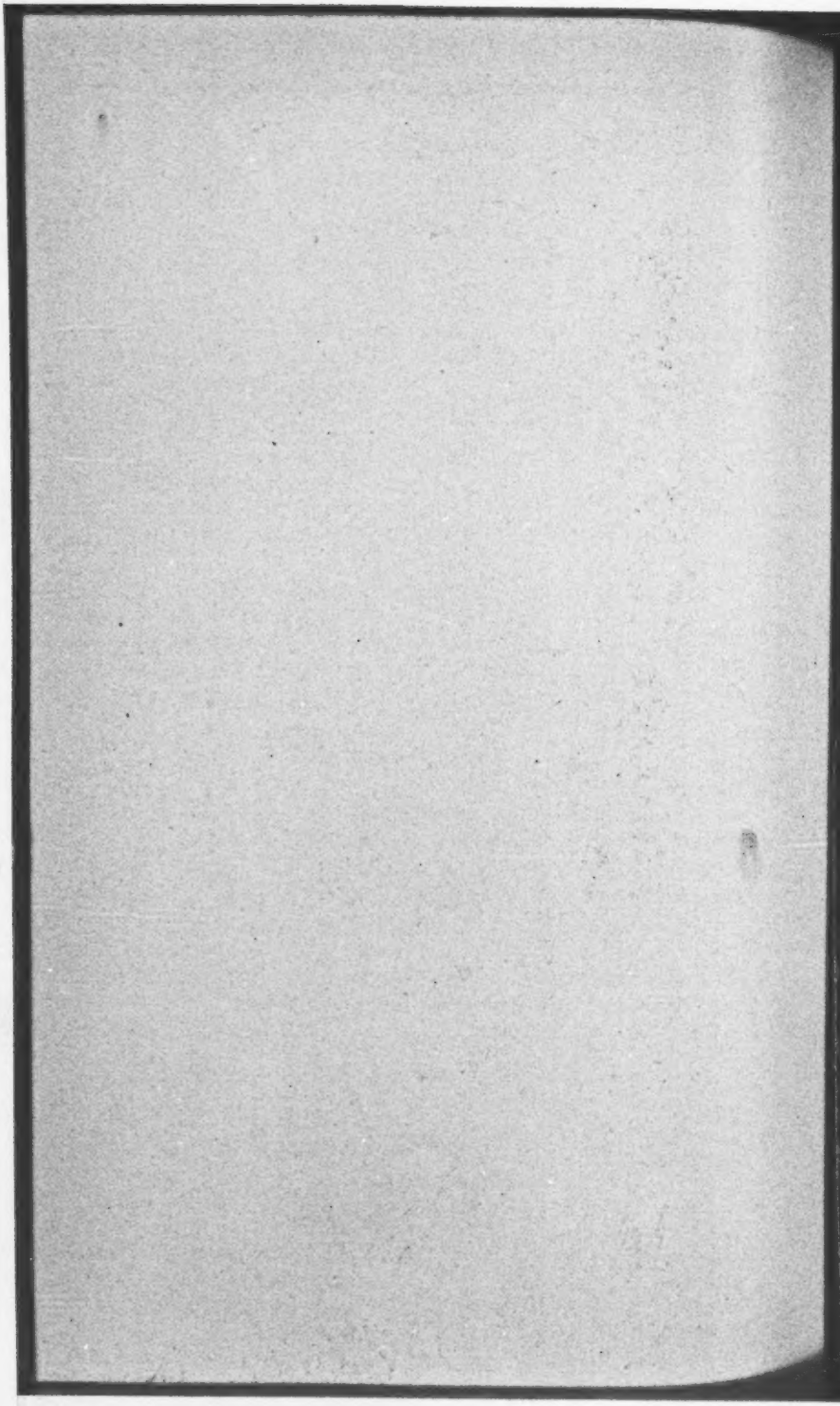
CREEK Nation. CREEK Roll.

Card No. 2707
Field No. 2774

P.O. Muskogee Ind Ter							
3 Atkins Thomas	10 M	1/2	1895	Euchee	2/3 White man	Minnie Atkins	1895 Euchee

Letter of May 1 1905 from the Commissioner to the Five Civilized Tribes directing action to be suspended in matter of issuing deed to lots of No 1

Date of Application for Enrollment May 23 1901



Government's Exhibit 2.

Eq. 2131.—1-10-16.

Form 2289 K

WESTERN UNION

[Western Union trade mark.]

NIGHT LETTER

George W. E. Atkins, Vice-president — Newcomb Carlton, President — Belvidere Brooks, Vice-president

Received at

A67GSCD 59NL 42EXA

D Paola Kans. Feb 24-1915

Major John Stafford

USA Retired 3592 Front St

Sandiego Cal

Please wire me collect at Severs Hotel Muskogee Okla your best recollection of date Indian girl Minnie Atkins came to work for you and left you and especially whether she was with you July and August eighty six and I must know this today please oblige with this helpful information and send me day message

E. C. Hanford Atty for Minnie Atkins

Feb 25 438 a m

649

(Pencil notation on margin: NC 185 No 8.47 a m No 9.10 a No 9.29 a No 9.50 a No 10.13 a unable raise.

(On back:) Feb 25-15 Cannot state positively—Employed M. A. about 9 months from Oct first 1885 When M. A. left my employment in 1886 her physical condition indicated pregnancy——[Line run through following: Cannot recall where she went but I believe she went to L., cannot recall party's name.] Cannot recall other inquiries.

Government's Exhibit 3.

Eq. 2131.—1-10-16.

POSTAL TELEGRAPH-CABLE COMPANY

[Postal Telegraph trade mark.]

NIGHT LETTER

The Postal Telegraph-Cable Company (Incorporated) transmits and delivers this night lettergram subject to the terms and conditions printed on the back of this blank. Clarence H. Mackay, President.

Received at 951 5th St., San Diego, Cal. Telephones Home 2211 Sunset Main [illegible] Delivery Number 60
Independent Competitive Progressive
4-383
69—Gs. By. 63 N.L. 8 extra 11 50 p. m.

Seattle, Wn., July 15th 1914.

Major John Stafford, U. S. Army, retired,
3592 Front St., San Diego, Cal.

You may remember an Indian cook working for you at Leavenworth in the eighties named Minnie Atkins a Carlisle student in event anyone and especially a colored woman should approach you in regard to her please disclose no information or make any affidavits if you are approached please wire me at once collect letter follows:

E. C. Hanford,
Formerly Lieut. First Cavalry
T.S. attorney for Minnie Atkins.

[On back: Regular form, giving terms and conditions as to night lettergram, etc.]

Government's Exhibit 4.

Eq. 2131.—1-10-16.

East San Diego, Calif.,
R. C. Allen, National Atty., April 20-15.
Muskogee, Okla.

Dear Sir:

Have no further information yet, but believe I am on track of my lost records and may dig them up. In the mean time explain to me in a few words what is the real meaning of this suit? What does it mean to the government? What to Indian Minnie? What to the Creek Nation? What to the other claimants—Mr. Buell for instance? I want to know what the right and wrong of the matter is before I say anything about it.

Yours very truly,
C. R. Carpenter, M. D.

P. S. What difference does it make whether the Peterkin child was Minnie's first or second child? I am not familiar with the Indian laws. C.R.C.

Government's Exhibit 5.

Eq. 2131—(3 pages)—1-10-16.

Thomas Atkins Case.

Dr. C. R. Carpenter, April 26, 1915.
East SanDiego, Calif.

Dear Doctor:

Replying to your letter of April 20th, I beg to advise you that the action brought by the United States involving the allotment of Thomas Atkins was brought in the name of the United States for the use of the Creek Nation of Indians against Minnie Atkins and others claiming to be heirs of Thomas Atkins. The purpose of this suit is to cancel the allotment made in the Creek Nation by the Government to Thomas Atkins. It is the contention of the United States in this case that Thomas Atkins is a myth and never having had an existence was of course, not entitled to an allotment, and not having been entitled to an allotment, the deed made to him should now be cancelled.

Upon investigating the evidence we learn from Minnie Atkins that she had one child in Leavenworth, Kansas; that she had three children at Ft. Logan, Colo., and that these were the only four children she ever gave birth to. She testified positively to this effect upon two occasions. Upon learning that we had positive evidence that she had given birth to Robert Lee Peterkin at Leavenworth, Kansas, which we claim is the only child she ever had in Leavenworth, she changed her story and notwithstanding the fact that she had testified twice before that she had never had but one child before moving to Ft. Logan, she went upon the witness stand in the Federal court here and testified that she did give birth to Robert Lee Peterkin; that Robert Lee Peterkin was her second child and that her first child was Thomas Atkins and that he was born about 1½ years before the birth of Robert Lee Peterkin.

You ask me what this suit means to Minnie Atkins?

Replying to this question I will say that Minnie Atkins is claiming to be the mother of Thomas Atkins, and she contends that Thomas Atkins is dead and that she is entitled to inherit this entire estate.

Another woman by the name of Nancy Atkins is also claiming to be the mother of the alleged Thomas Atkins and two different parties are claiming to be the real Thomas Atkins, so should the Government fail to establish its case, the question would then be decided as to who is entitled to this allotment.

You ask me what interest Mr. Buell has in the case?

Mr. Buell as I understand it has taken a lease from one, Quinton Garrett, who is alleged to be a citizen of the Creek Nation and who has attempted to file upon this allotment. Neither Quinton Garrett or he are parties to this case and should the Government win, it will still be the contention of the Government that Quinton Garrett is not entitled to allot this land, and of course should we be successful in this contention, the interest of Buell would be defeated with the interest of Garrett.

In allotting the Creek lands in severalty among the citizens of the Tribe, each citizen was given 160 acres of land, which was called an allotment. The Government contents that by fraud or otherwise this particular allotment made to Thomas Atkins of 160 acres was either fraudulently or erroneously made and that therefore the Creek Indians are entitled to receive this land.

As stated to you in Los Angeles, this allotment is of great value, but as stated then, the Government only desires to obtain evidence that is absolutely true. If you find your records and they disclose any information concerning the birth of Robert Lee Peterkin, I trust that you will let me hear from you at once.

Yours very truly,

.....,

RCA—L National Attorney.

Government's Exhibit 6.

Eq. 2131.—1-10-16.

East San Diego, Calif.,
May 18, 1915.

Mr. R. C. Allen,
Muskoogee, Okla.

Dear Sir:

I have at last learned definitely that my records were destroyed after I left home. I have decided however that I will come on *an* testify, if you desire it, and will send transportation both ways.

Yours very truly,

C. R. Carpenter.

P. S. This is with the understanding that I be paid mileage. C.R.C.

P. P. S. I have reopened this letter to say that I have recalled enough of the circumstances to decide the case definitely.—C.R.C.

Government's Exhibit 7.

Eq. 2131.—1-10-16.

C. R. Carpenter, M. D. East San Diego, Cal.
East San Diego, Cal.
Aug 31, 1915.

Mr. R. C. Allen, National Atty. Creeks,
Muskogee, Okla.

Dear Sir:

Please notify me as definitely as possible when I shall be needed for that Minnie Atkins case, so that I can adjust matters here a little before I go. You said the trial would probably be at the Sept term of court.

Yours very truly
C. R. Carpenter, M. D.

Government's Exhibit 8.

Eq. 2131.—1-10-16.

Dr. C. R. Carpenter, September 9, 1915.
East San Deigo, California.

Dear Sir:

Your letter of August 31st came to this office in the absence of Mr. Allen from the city, and, since he is still away, I will state that it has about been decided to get a lot of the evidence in the Atkins case in the form of depositions, and it is expected to take the depositions of several witnesses in San Deigo. This arrangement will obviate the necessity of your making a trip out here, and will cause no neglect of your business.

You will be notified in ample time as to the date and place of the taking of depositions in your city.

Respectfully,
....., Clerk.

Government's Exhibit 9.

Eq. 2131.—1-10-16.

East San Diego, Calif., May 29-1915.

Mr. R. C. Allen, Nat. Atty Creek Nat.
Muskogee, Okla.

Dear Sir:

I sincerely hope that trial will not be put off until Sept. as I can come now better than I could then. I was anticipat-

ing an appointment as medical school inspector in Sept and it would interfere with my work to have the trial at that time. However I may not be appointed, and in any case I guess I'll manage it. You say I will be paid mileage and per diem, but say nothing of transportation. I suppose this will be included.

Yours very truly,

C. R. Carpenter, M. D.

Government's Exhibit 10.

Eq. 2131.—1-11-16.

Dr. C. R. Carpenter, March 5th, 1915.
East San Diego, Cal.

Dear Dr. Carpenter:

In our conversation of yesterday I omitted to state that Mr. Buell, whom I represent, expects to remunerate you for any expense and inconvenience you may go to in securing the records of which we spoke.

This, of course, was the implied understanding between us, as otherwise I could not have urged you to procure the said records.

As this is rather an important matter I will appreciate your promptly informing me upon receipt of these records and after a perusal of the same.

Yours very truly,

Government's Exhibit 11.

East San Diego, Calif.,
March 6-1915.

Trent G. Anderson,
326-331 Stimson Bldg.,
Los Angeles, Calif.

Dear Sir:

I omitted asking you just what the point at issue was in that Peterkin-Atkins case. Is it the legitimacy of the child? Or the fact as to whether there was a child or not? Does illegitimacy bar the claim? You said there was some doubt as to the existance of the child at all, but you did not say whether there was anything more or not. I am beginning to recall faintly some of the circumstances and I want to know just how I can help you.

I have written for the record and will notify you as soon as it comes. Yours very truly,

C. R. Carpenter, M. D.
Box 293.

Government's Exhibit 12.

Eq. 2131.—1-11-16.

Dr. C. R. Carpenter,
East San Diego, Cal.

March 8th, 1915.

Dear Sir:

In reply to your letter of the 6th. inst. I wish to inform you that the principal fact that Mr. Buell is seeking to ascertain is whether or not the child born to Minnie Atkins on July 31st, 1886, was her first-born. There is no question raised, so far as I know, as to the child's legitimacy, nor is there any question as to its being born for I believe there is a birth-record in Leavenworth.

When I said that there was some doubt as to the child ever existing I had reference to a child named Thomas Atkins and not the one at whose birth you officiated.

Thanking you for your interest and your promptness, I remain, with kindest regards,

Yours very truly,

Government's Exhibit 13.

Eq. 2131.—1-11-16.

"Thomas Atkins"

May 8th, 1915.

Dr. C. R. Carpenter,
East San Diego, Cal.

Dear Sir:

Will you kindly advise me as to what progress you have been able to make in securing your records of the year 1886 in regard to the birth in question.

With kind regards, I am,

Yours very truly,

TGA—S

Government's Exhibit 14.

Eq. 2131.—1-11-16.

East San Diego, Calif.,
May 18-1915.

Trent G. Anderson,
Los Angeles, Calif.

Dear Sir:

Pardon me for not answering sooner but I could not give a definite answer sooner.

I have ascertained finally that my records were destroyed when I gave up my office. My wife did not realize their importance and I failed to tell her.

I have decided however that I will go on to Muskogee and testify if they want me, and will furnish transportation both ways.

Yours very truly,

C. R. Carpenter, M. D.

Government's Exhibit 14.

2131 Eq.—2-24.

Tulsa, Okla., October 21, 1914.

Receipt is hereby acknowledged of Gem Oil Company of the sum of $2,000.00, being the amount which C. H. Rogers and myself were to receive from Gem Oil Company for services rend*rer*d as hereinafter set forth: of which amount I acknowledge receipt of $550.00 in cash, the remaining p*ro*tion of the said $2,000.00 being paid me by delivery of warranty deed executed by Chas. Page, conveying to me certain residence property in Sand Springs, Oklahoma, receipt (A.A.E.) of which warranty deed is hereby acknowledged; said $2000.00 being payment in full for all claims, interest or demand whatsoever nature I have in oil and gas mining leases executed in favor of Gem Oil Company by Minnie Folk et al., covering the SW4 of NW4 of Sec. 4; the SW4 of NE4 and Lot 2 of Sec. 5, and Lot 4 of Sec. 4, all in Twp. 18 North, Range 7 E., and also payment in full for all services rendered Gem Oil Company and Chas. Page and R. A. Josey, and for work done and for information furnished in connection with said lease; and in consideration of the above sum of money and in consideration of the delivery to me of the real estate conveyed in the above mentioned deed, I hereby release Gem Oil Company, Chas. Page, and R. A. Josey from any and all obligations in said lease, and from the payment of any further sum of money.

Signed this 21st day of October, 1914.

(Signed) S. E. Mann.

State of Oklahoma, Tulsa County, ss.

Before me a Notary Public in and for said State and County on this 21st day of October, 1914, personally appeared S. E. Mann, to me known to be the identical person who executed the above and foregoing instrument and she acknowledged to me that she executed the same as her free and vol-

untary act and deed for the uses and purposes therein set forth.

Witness my hand and seal this day and year last above written. (Signed) A. A. Eberly,
(Seal) Notary Public.
My commission expires June 15, 1918.

* * * * * * * * *

The above is a true copy of receipt signed in my presence by S. E. Mann.

A. A. Eberly.

Government's Exhibit 15.

Eq. 2131.—1-25-16.

(Stamp:) Leavenworth Jul 12 9 P M Kan.

POSTAL CARD.

(U. S. Postage—one cent.)

Nothing but the address can be placed on this side.

Capt. R. H. Pratt,
Carlisle,
Pa.

(Over:)

Leavenworth, July 11th, '84.

Minnie Atkins arrived safely yesterday and we are much pleased with her appearance. Will be pleased to report further after we are better acquainted.

Yours respy.

Geo. H. Hyde.

Government's Exhibit 16.

2131 Eq.—2-26-15.

In the United States District Court for the Eastern District of Oklahoma. United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—No. 2131, Equity.

AFFIDAVIT OF FRANK L. MONTGOMERY, PROBATE ATTORNEY.

Frank L. Montgomery, being first duly sworn, upon oath states that he is a United States Probate Attorney, Indian Service, and was such upon the days and dates hereinafter referred to; that on or about the 8th day of December, 1914, I was authorized and directed by the Honorable, the Com-

missioner of Indian Affairs, to proceed to Seattle, Washington, and investigate the alleged claim of Minnie Folk, nee Atkins, to the allotment of one Thomas Atkins of certain lands in the Creek Nation now situated in Creek County and the subject of controversy in this suit.

I reached Seattle, Washington, on Sunday morning, December 13th, and upon that date called upon Captain Alexander McNab, U. S. A., at Fort Lawton, and explained to him the object of my visit and also explained to him the developments which had arisen in the case insofar as I was at that time informed, and in a general way advised him of the nature of the claims of all parties actively interested in the property. Upon the following Monday morning Captain McNab introduced me to Corporal Folk, the husband of Minnie Atkins, who carried me to his home and introduced me to his wife, Minnie Folk, nee Atkins. At this meeting and in the presence of her husband I explained to Minnie Atkins the purpose of my visit and had a long conference with her that day, reading her the testimony which she had given at Sapulpa and the deposition which she had given at Tulsa, Oklahoma, and also the affidavit of Sadie James. On Tuesday morning I went to Captain McNab, asking that he see Minnie Atkins with me and tell her who I was and my purpose, and in compliance with this request Captain McNab called with me upon Minnie Atkins at 3:30 P. M. of that date and in my presence stated to her that I was a proper representative of the United States Government and that any statement which she made was upon her own responsibility for the reason that he was no longer her trustee and she must act for herself. Thereupon Captain McNab left and I had another talk with Minnie in which we went over many phases of the case.

Upon this occasion and a short time after Captain McNab left, C. E. Hanford, an attorney of Seattle, a party defendant in this case, came in and represented himself as being the attorney for Minnie Atkins. I then explained to him the purpose of my visit, upon which Mr. Hanford in my presence and in the presence of Minnie Atkins advised her that any statement which she might make to me would be taken against her and that if she stated that she never had a son named Tommy she would lose her land in Oklahoma. This audience continued until about 6 P. M. of that date. At this meeting Minnie Atkins and her husband stated that she would talk no further about the matter with me until Friday.

Upon the following morning, being Thursday, I went out to the Post for the purpose of seeing Captain McNab and Colonel Wilson, U. S. A., first going by to call on Minnie

Atkins, with the view of having Captain McNab call on her with me, a matter which we had agreed upon the previous evening. A short time after my having arrived at the Captain's quarters, C. E. Hanford came in and after a few minutes a telephone call was received by Captain McNab and following the telephone call Minnie Atkins came to the Captain's quarters where the Captain, C. E. Hanford and myself were. After Minnie Atkins had come into the quarters of Captain McNab he stated to her that he had been shown a telegram by me to the effect that she had conveyed all of her interest in the Tommy Atkins allotment to Charles Page unknown to him and unknown to her attorney, Mr. Hanford; that the United States Government was prosecuting an inquiry through me into the case and that if she had deceived anybody as to being the mother of Tommy Atkins and if she had not told the truth it was time she was telling the truth about it, that the truth would finally come out and she might be placed in a very embarrassing situation. At this time Mr. Hanford, acting as her attorney, told her emphatically that I was a representative of the United States Government and was about to bring suit for the cancellation of the allotment deeds to Tommy Atkins; that I was representing an interest adverse to hers and that any statement which she might make to me would be taken against her and not for her and that if she was not the mother of Tommy Atkins the property would go back to the Creek Nation and she would lose what right, title or interest she might have in it. I then stated to Minnie Atkins that it was true that I was a representative of the United States Government; that I was there for the purpose of securing the truth about this matter and that if she really did have a child named Tommy Atkins we wanted to know it and wanted to know where he was born, when he was born, with whom he lived, where he died and all about him; that if she had been deceiving these people and she was not the mother of Tommy Atkins we wanted to know it and if she had been telling a lie about this matter that now was the best time for her to tell the actual truth; that I could not promise her any immunity for what she had done by reason of committing perjury or conspiracy to defraud but that I would use my best efforts to keep her from being prosecuted, but that in any event I did not want her to tell me anything but what was the honest God's truth about Tommy Atkins.

Following this conversation she studied the matter over for about 30 minutes, Captain McNab in the meantime leaving and she being in the quarters with Mr. Hanford and myself, whereupon she turned to us and stated that she was not

the mother of Tommy Atkins; that Tommy Atkins was never born to her; that she had only three children, Mabel Peterkin who died at Fort Logan, Colorado, Charlie Harrison and Harvey Harrison who are on the rolls and now reside at Wagoner, Oklahoma; that the statement made by her that she had a child named Tommy Atkins was suggested to her by Sadie James and that the story she had told about the birth and death of Tommy Atkins was all framed and suggested to her by Sadie.

In the meantime Captain McNab had returned and I proposed to him that a short memorandum signed by Minnie Folk, nee Atkins, be made, to the effect that she had never had a child named Tommy Atkins and reduced to writing and left in his care; that I would immediately wire the proper authorities and use my best effort to secure immunity for her, whereupon she could then make a full and complete confession, reduce it to writing and swear to it, and that in the event I was unable to secure immunity for Minnie then the written confession as made before Captain McNab could be burned by him. Mr. Hanford, Captain McNab, Minnie Folk, nee Atkins, and myself then went to Captain McNab's private office and I wrote a confession, dated it at Fort Lawton, December 17th, being in substance:

> I, Minnie Folk, nee Atkins, in the presence of C. E. Hanford and Frank L. Montgomery, United States Probate Attorney, do hereby state that no child was ever born to me by the name of Thomas Atkins or Tommy Atkins and that the Thomas Atkins for which I drew the grass money was my father; that I am the mother of only three children, Mabel, or Alice, Petriken, Charlie Harrison and Harvey Harrison.

When this statement had been written by me in the presence of the above named parties Minnie Folk, nee Atkins, was then further warned by Captain McNab and Mr. Hanford that she did not have to sign this statement unless she wanted to and that under no circumstances must she sign it unless it was the honest God's truth. After having heard the statements from her attorney, Mr. Hanford, and from Captain McNab, warning her that any confession she might sign would be against her and not for her, that I had no authority to grant her immunity and did not promise immunity except that I would attempt to secure it, Minnie Folk, nee Atkins in my presence and in the presence of C. E. Hanford and Captain McNab signed her name to the confession above referred to

Upon the following morning, it being Friday, I met Mr. Hanford at Captain McNab's quarters when he told me that he had just come from the residence of Minnie Folk, nee Atkins; that she was anxious to see me and that she had repudiated everything she had stated the day before. I then went with Mr. Hanford to see Minnie Folk, nee Atkins, and she told me at that time that she repudiated the statement made the day before in the presence of Mr. Hanford and Captain McNab and that she would not discuss the case with me any further; that she did not know what she was talking about at the time and she made the statement for the purpose of pleasing me, and that it was not true that she was not the mother of Tommy Atkins.

After Minnie Atkins having signed the statement or confession above referred to I wired the Commissioner of Indian Affairs and also communicated with the authorities in Oklahoma for the purpose of securing immunity for Minnie Folk, nee Atkins, and upon Friday, the day following the confession upon the part of Minnie Folk, I secured what I conceived to be sufficient authority to grant immunity to Minnie Folk. I communicated these matters to Captain McNab and requested that he deliver to me the confession as agreed to, whereupon Captain McNab refused to deliver the confession to me and stated positively that he would have nothing further to do with it and that he would upon that evening deliver back to Minnie Folk, nee Atkins, the confession above referred to.

Frank L. Montgomery.

Subscribed and sworn to before me this the 25th day of February, 1915.

F. H. Walkup,
Notary Public.

(Seal)

Commission Expires May 13, 1917.

GOVERNMENT'S EXHIBIT 16.

Eq. 2131.—1-25-16.

Cap. R. M. Pratt,
Superintendent.

Miss M. R. Hyde,
In Charge of Girls.

U. S.
INDIAN INDUSTRIAL SCHOOL,
Carlisle, Pa., ..., 188..

Ware, Mass., July 18th, '84.

Cap't R. H. Pratt.

I found yours of 15th and 16th here, awaiting my arrival yesterday afternoon, and I was very glad to hear from you.

I have had delightful visits both in Brooklyn and Newton, but have not yet been able to get a good nights sleep. I hope now that I have reached this delightful haven of rest, to make up for lost time. I was glad to hear of Minnies safe arrival at Leavenworth, and that the first impression was so good. Also that Mary Perry would probably return, and of Libbie standings improvement, though I myself have very little hope of her recovery. It is very kind of you to consent to my remaining away for a week or two longer, and I think I shall probably avail myself of your offer. The family here are all very cordial, and seem much interested in Carlisle. I am glad that I brought with me a fair assortment of photographs. Uncle William remarked last night that he had not heard from you this year. I replied that if he had not, I was very sure you would be delighted to hear from him, at which he laughed. While at sister Addus, I saw a book lying on her desk that I thought you would enjoy, and as I was making out a list of books to be bought, I put down an extra copy for you. They were to be sent by express to Lee, and when I get there, I will forward a copy to you. I think you will like to keep it on the desk beside you. I return the Doctor's, and Mary Perry's letters, together with brother George's postal, as I know you are particular about preserving them. With kind regards to Mrs. Pratt and the family, and all friends who may inquire, I remain

Very resp't yours,

Mary R. Hyde.

Government's Exhibit 17.

Eq. 2131.—1-25-16 (3 sheets).

Minnie Atkins; Ent'd 1-22-81; Disch'g'd 7-8-84; Died 1911

Supt Carlisle Indian Institute, Nowata, Okla., Mch 1-13.
Carlisle, Penn.

Dear Sir:

I would like to know where Minnie Atkins went to when she left school. She went from Carlisle to some Post with some Army officers wife. I would like to know & also to have a school record of Minnie Atkins the year she entered the year she left. It is necessary that I should have to ascertain who are the sole and only heirs at law of Thomas Atkins, deceased. So if you can give us this information we will appreciate it very much.

Yours Respt.

Micco Harjo.

No. 304 N. Sycamore St., Nowata, Okla.

Mr. Micco Harjo,
Nowatta, Okla.

March 8, 1913.

Dear Sir:

I have your letter of the 1st inst. inquiring of the whereabouts of Minnie Atkins. Our records show that Minnie was enrolled in this school Jan. 8, 1881, and that she was discharged July 8, 1884. Our records also show that Minnie belonged to the Creek tribe of Indians in Oklahoma. Each year we send out circulars to each student of Carlisle, hoping to receive in return something of their life and work after leaving Carlisle, and on the back of one of these circulars is the following:

> "Minnie Atkins has never heard of for number of years. She left a child a boy 10 or 8 years old and left this country expecting to return but no one has never heard from her. No one knows whether she is dead or not. Her son is a young man and lives near here."

This information was given by Mrs. Childers who does not give her address, so we are unable to find any further information I should be glad to hear if you find anything more about Minnie so that we may complete our records in this office.

Very respectfully,

L F/GIL

Superintendent.

Government's Exhibit 18.

2131.—2-26-15.

CERTIFICATE [cross] OF BAPTISM

I Hereby Certify, that Robert Lee (Petegin) Peterkin, Son of Charles (Petegin) Peterkin and Maria Atkins was born on the Thirty-first day of July, 1886, and was Baptized on the fifteenth of Aug 1886 at home.
Lattie Wagoner, Sponsors.
(Seal)

Signed M. J. Hill, Rector.

The above is from Cathedral Records Feb 16th 1915.

Bernard S. Kelly, Rector.

Benziger Brothers, New York, Cincinnati, Chicago

Government's Exhibit 18.

Eq. 2131.—1-25-16—(4 sheets)

Gem Oil Company, Febr. 20th, 1915.
Box 597, Tulsa, Oklahoma.

Gentlemen:

Replying to your Mr. Josey's letter of February the 17th, this is to advise you that our records regarding the Minnie Atkins who was formerly enrolled at this school are not quite complete. The information is on file that she came to Carlisle on January the 22nd of 1881 and that she was released from the School on July the 7th of 1884 to go "out West."

When an effort was made several years ago to secure definite information regarding all former students of this school Mrs. Ellis B. Childers, who was formerly enrolled at Carlisle under the name of Millie McIntosh, wrote as follows:

> "Minnie Atkins has never been heard of for a number of years. She left a child, a boy 10 or 8 years old, and left this country expecting to return but no one has ever heard from her. No one knows whether she is dead or not. Her son is a young man and lives near here."

I enclose herewith a letter that was received here in March of 1913 from Mr. Micco Harjo relative to the same matter, together with a copy of the reply that was addressed to him. I would thank you to have the letter and the copy of the reply returned to this office for our files.

It cannot be necessary to add that the Mrs. Childers who wrote regarding Minnie Atkins is the wife of the prominent Mr. Ellis B. Childers.

Regretting that definite information regarding the girl after she left Carlisle is not on file here, I remain,

Very respectfully,

HKM Supervisor in Charge.

(Copy to the Superintendent for the Five Civilized Tribes)

GEM OIL COMPANY
P. O. Box 597
Tulsa, Okla.

February 17th, 1915.

The Honorable Superintendent,
Carlisle Indian School,
Carlisle, Pa.

Dear Sir:

We will thank you to advise us at your earliest convenience, as to the date of enrollment, as shown by the rec-

Allottee's
Roll No. 7913

Certificate of Selection.

Selection
No. 16983

CREEK NATION.

Commission to the Five Civilized Tribes.
Muskogee Land Office
June 30, 1902.

This certifies that Thomas Atkins has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
E½ of NW¼ and Lot 3 of	5	18	7
S½ of NW¼ and Lot 4 of	4		

of the Indian Base and Meridian in Creek Nation, containing 162.94 acres more or less as the case may be according to the United States survey thereof

This certificate is not transferable.

Commission to the Five Civilized Tribes.

Chairman.

Loc. W. Land Field No. 2. 1904.

ords in the Carlisle School, of Minnie Atkins, from the Five Civilized Tribes of Oklahoma.

We will also thank you to advise us as to the date of her discharge from the Carlisle School and if there is any showing in the records as to whether she returned to Oklahoma from the school. Our information is, that she went from Carlisle to Leavenworth, where she was employed as a servant in the family of George H. Hyde.

We were today advised by Miss Alice M. Robertson, of Muskogee, Oklahoma, who was an instructor in the Carlisle School in the early 80's, that the School established a system of checking up its graduates and that your records should show the whereabouts of Minnie Atkins for a period of not less than five years after she left the School. We desire particularly to know whether the records show that Minnie Atkins became the mother of a son in 1885 or 1886.

For your information in looking this matter up, we will state that Minnie Atkins was enrolled in the Carlisle School, together with 24 other children, from the Five Civilized Tribes of Oklahoma, in the year 1880 and that she left there in either the year 1883 or 1884.

We will be very appreciative if you will mail the information above requested so that it will reach us not later than Tuesday, February 23rd.

Very truly yours,

Gem Oil Company,

By R. A. Josey.

Government's Exhibit 19.

Eq. 2131.—2-9-16.—H. Carter.

[See insert herewith for reproduction group photograph.]

Government's Exhibit 19.

2131.—2-26-15.

[See insert herewith for photographic reproduction of Certificate of Selection, No. 16983.]

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of

the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of certificate of selection No. 16983 issued in the name of Thomas Atkins, Creek by blood, Roll No. 7913.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

Feb 26 1915 C. H. D.

State of Oklahoma, Muskogee County, ss.

I, William H. Angell, state I am a clerk in the office of the Superintendent for the Five Civilized Tribes, and am in charge of the Land Office Division of said office; that the attached copy of a certificate of allotment issued to Thomas Atkins, whose name appears upon the final roll of citizens by blood of the Creek Nation, opposite roll No. 7913, is a true copy of the original certificate issued pursuant to the setting aside and making of the allotment herein designated; that said original of said certificate has never been delivered; and further state that at the time said allotment was set aside, I was a clerk in the office of the Dawes Commission and that said allotment was arbitrarily made without any application being made therefor.

William H. Angell.

Subscribed and sworn to before me this 26th day of February, 1915.

(Seal) Edward Merrick, Notary Public.

My commission expires Mch. 17, 1915.

Government's Exhibit 20.

2131 Eq.—2-26-15.

POWER OF ATTORNEY.

Know All Men by These Presents, Delray

That I, Mrs. Minnie Harrison, of Delray Mich, do hereby make, constitute, and appoint Thomas E. Holden of Choska, Indian Territory, my true, sufficient, and lawful attorney, for me in my name to select and file on such lands as I and my minor children, Charles Harris and Harvey Harris, may be entitled to by reason of our being citizens of the Creek Nation, and to use, lease or rent said lands as he may deem best for the reason that I am not able to attend to the business myself, on account of my temporary absence from the Indian Territory, and to do and perform all necessary acts in the

execution and prosecution of the aforesaid business in as full and useful a manner as I might do if I were personally present.

In witness whereof, I have hereunto set my hand and seal, this 2 day of April, 1900.

Mrs. Minnie Harrison.

Signed, sealed, and delivered in the presence of

Louis Edward DeLisle,
Charles Grahn.

United States of America, State of Mich, Wayne Co. *District*, ss

I, Peter B. De Lisle, a Notary Public within and for the Wayne County, Mich., do hereby certify that Minnie Harrison, named in the foregoing instrument as grantor, appeared before me this day in person and acknowledged that she had signed and executed the foregoing Power of Attorney as her free and voluntary act and deed, and for the purposes and considerations therein mentioned and set forth.

Given under my hand and Notarial seal this 2 day of April, 1900.

(Seal) Peter B. De Lisle, Notary Public.

(U. S. Revenue stamps, 25c.)

(On back:) To be filed with Old Creek Card No. 2055. See New Creek Card No. 1659.

Department of the Interior, Office of Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of Power of Attorney executed on April 2, 1900, by Mrs. Minnie Harrison to Thomas E. Holden relative for an allotment of land in the Creek Nation for Charles Harrison and Harvey Harrison.

GABE E. PARKER,
Superintendent for the Five Civilized Tribes.

CHD Feb 25 1915

State of Oklahoma, Muskogee County, ss.

I, Charles H. Drew, state that I am a clerk in the office of the Superintendent for the Five Civilized Tribes; that I have

and have had subordinate charge of the records and files in said office pertaining to the allotment of lands; that the attached copy of a power of attorney constitutes a part of the files in said office relating to the allotment of lands of the Creek Nation to Charles Harrison and Harvey Harrison; that the original of said power of attorney is contained in the files relating to allotments to said citizens.

Charles H. Drew.

Subscribed and sworn to before me this 26th day of February, 1915.

(Seal) Edward Merrick,

My commission expires Mch. 17, 1915. Notary Public.

C

Government's Exhibit 20.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of group photo (illegible).]

Government's Exhibit 21.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's Term Report, Oct. 1, 1894, to April 12, 1895.]

Government's Exhibit 22.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's Term Report, Sept. 14, 1896, to March 10, 1897.]

Government's Exhibit 23.

Eq. 2131.—2-9-16.

[See insert herewith for reproduction of group photograph (endorsed on back, "Jesse A. Hall, 403 Olive St., Leavenworth, Kan")..]

Government's Exhibit 24.

3-3-15—2131 Eq.

[See insert herewith for reproduction of small photograph.]

No. 12.

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened October 1st, 1894; closed April 19, 1895
3. Length of term, in weeks, 28; length of term, in school days, 140.
4. Teacher's name, Jesse A. Hall; sex, Male.
5. Teacher's certificate, Grade 3d, date April 28, 1894, expiration April 28, 1895

6. Number of different pupils enrolled in school,
   (1) White: Males 22, Females 17, Total 39
   (2) Colored: Males 1, Females 1, Total 2
   (3) Totals: Males 23, Females 18, Total 41
7. Total attendance in days,
   (1) White: Males 1774½, Females 1441½, Total 3216
   (2) Colored: Males 115, Females 110, Total 225
   (3) Totals: Males 1889½, Females 1551½, Total 3441
8. Average daily attendance,
   (1) White: Males 34.7, Females 9.15, Total 17.10
   (2) ~~Colored: Males 115, Females 110, Total 225~~
   (3) Totals: Males 19.576, Females 20.10, Total 39.676
9. Number of tardinesses, 330. Number never absent nor tardy, 1.
10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES

PRIMARY. INTERMEDIATE. GRAMMAR.

ALPHABETICAL LIST OF PUPILS	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Spelling	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Spelling	Copy Book	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U.S.	Physiology and Hygiene	Book-keeping	AUTHOR.
1 Bond Charles	13	140	X	X	X	X	X	X	X	X	X	X	X	X	X	99	X	X	90	92	86	X	X	X	X	X	X	
2 Bradford Percy	13	77	X	X	X	X	X	X	X	99	98	X	90	88	X	X	X	X	X	X	X	X	X	X	X	X	X	
3 Carter Pet	14	133	X	X	X	X	X	X	X	X	X	X	X	X	98													
4 Carter Viola	12	107	X	X	X	X	X	X	X	X	X	X	92	89	94	96	X	89	X	X	X	X	X					
5 Cyrus David	16	20	X	X	X	X	X	X	X	X	X	X	X	X	X	Irreg. Attend.												
6 Graves Nellie	11	121	X	X	X	X	X	X	X	X	X	X	99	98	X	97	96	97	91	X	X	X	X	X	X	X	X	
7 " George	21	12	X	X	X	X	X	X	X	X	X	X	X	X	Irreg. Attend.													
8 " Sidney	16	38	X	X	X	X	X	X	X	X	X	X	X	X	X	98	96	96	X	X	X	X	X	X	X	X	X	
9 " Robbie	8	50	X	X	X	X	X	X	X	X	X	X	X	X	X	99	X	98	90	X	X	X	X	X	X	X	X	
10 " Samuel	6	40	Irreg. Attend.																									
11 Lee Alexander	17	84	X	X	X	X	X	X	X	X	X	X	X	X	X	98	98	X	98	96	X	96	97	97				
12 " Charles	9	113	X	X	X	X	X	X	X	97	97	98	X	X	X	X	X	X	X	X	X	X	X	X				
13 " James	6	93	93	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
14 " Mary	12	133	X	X	X	X	X	X	X	X	X	X	98	97	98	97	96	91	X	X	X	X	X	X				
15 " Robert	16	39	X	X	X	X	X	X	X	X	X	X	X	X	X	98	98	97	96	X	96	96	96	X				
16 Moore Charley	9	88	X	X	X	X	X	X	X	98	96	96	X	X	X	X	X	X	X	X	X	X	X	X				
17 " Minnie	8	87	X	X	X	X	X	X	X	X	X	X	98	X	98	96	96	X	X	X	X	X	X	X				
18 " Jesse	6	44	Irreg. Attend.																									
19 " Pearl	15	90	X	X	X	X	X	X	X	X	X	X	X	X	X	90	96	96	96	96	96	96	96	X	X	X	X	
20 " Myrtle	17	8																									Irreg. Attend.	
21 Scott Thomas	4	111	Irreg. Attend.																									
22 " Rose	6	139	98	98	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
23 " Walter	8	140	99	98	X	98	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
24 Scrivner Lola	8	98	99	98	98	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
25 Shipman Bert	12	98	X	X	X	X	X	X	X	98	98	98	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
26 " Myrtle	10	138	X	X	X	X	X	X	X	X	X	X	X	X	X	96	96	96	96	96	96	96	96	X	X	X	X	

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work

GRADES—CONTINUED.

PRIMARY | INTERMEDIATE | GRAMMAR

ALPHABETICAL LIST OF PUPILS	Age	Days Present	Days Absent	Times Tardy	Page Reader	Second Reader	Primary Arithmetic	Physiology and Hygiene	Spelling	Third Reader	Fourth Reader	Geography	Intermediate Arithmetic	Language	Physiology and Hygiene	Writing	Fifth Reader	Grammar	Geography	U. S. History	Composition and Letter Writing	Physiology and Hygiene	Book-keeping
29 Shipherson John	11	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
30 Rue Charles	12	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
31 " " Owen	8	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
32 " " Frank	6	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
33 Taylor Nellie	8	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
34 " " Willie	6	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
35 Tompson Brewer	9	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
36 " " " Luther	7	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
37 Worthington Fay	12	6																Sent Abroad					
38 Wright Eddie	12	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
39 " " Minnie	10	17	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
40 " " " Nellie	7	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
41 Duerenberg Sam	10	21							Left School														
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11. Totals, showing number of pupils using each text-book. 4

I hereby certify that the above Term Report is correct.

Jesse A. Hall

Teacher

(No. 12.)

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kans.
2. Term opened Sept. 14th, 189 ; closed March 10th, 189 7
3. Length of term, in weeks, 24, length of term, in school days, 120
4. Teacher's name, J. A. Hall; sex, Male
5. Teacher's certificate—Under 2, date April, 189 5, expiration April, 189 7
6. Number of different pupils enrolled in school,
   (1) White: Males 22, Females 19, Total 41
   (2) Colored: Males 1, Females 1, Total 2
   (3) Totals: Males 23, Females 20, Total 43
7. Total attendance in days,
   (1) White: Males 1629, Females 1241, Total 2870
   (2) Colored: Males 73, Females 16, Total 89
   (3) Totals: Males 1702, Females 1257, Total 2959
8. Average daily attendance,
   (1) White: Males 18 22/119, Females 10 111/119, Total 24 52/119
   (2) Colored: Males , Females , Total
   (3) Totals: Males 14 44/119, Females 10 111/119, Total 24 100/119
9. Number of tardinesses, 110 Number neither absent nor tardy, 2

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days present	GRADES: PRIMARY — Chart; Writing; First Reader; Second Reader; Primary Geography; Primary Arithmetic; Physiology and Hygiene	INTERMEDIATE — Spelling; Third Reader; Fourth Reader; Core Book; Intermediate Arithmetic; Intermediate Geography; Language; Physiology and Hygiene	GRAMMAR — Spelling; Copy Books; Fifth Reader; Arithmetic; Grammar; Geography; U. S. History; Constitution of U. S.; Physiology and Hygiene; Book-keeping; Algebra; Natural Philosophy; Physical Geography; Rhetoric; Botany; Civil Government; Geometry; Chemistry; Literature; Political Economy; Astronomy; Mental Philosophy; Moral Philosophy; Latin; Higher Mathematics; Higher English; Higher Natural Science; Higher History; Higher Latin; Higher Modern Language; Higher Ancient Language; Higher Political Science; Higher Philosophy; Higher Mental Science; Higher Moral Science; Higher Rhetoric; Higher Literature; Higher Political Economy; Higher Astronomy; Higher Civil Government; Higher Geometry; Higher Chemistry; Higher Botany; Higher Physiology; Higher Physical Geography; Higher Natural Philosophy; Higher Book-keeping; Higher Algebra; Higher Arithmetic; Higher Grammar; Higher Geography; Higher U. S. History; Higher Constitution of U. S.
1 Bradford Perry	10	67		X X X	
2 Carter H	16	75		X X X X	
3 " " Viola	14	70		X X X X X X X	180
Shaver Rufus	20	25			180
5 " " " Hallie	13	66		X X X X X X	
6 " " " Lena	8	87	X X X	X	
7 " " " Sidney	12	6		X X X	
8 Hasse Lizzie	8	9			
9 Lee Abelaide	10	70			
10 " " Chester	11	105		X X X X X X	105
11 " " James	9	112	X X X X		
12 " " Mary	14	89		X X X X X	
13 " " Robert	7	80			140
14 Marshall Hal	11	60		X X X X X	
15 McFadden Eva	10	8			
16 Marshall Willie	6	35	X X X		
17 Moore Charles	11	105		X X X X X	
18 " " " Josie	8	75	X X		
19 " " " Minnie	15	67		X X X X X	
20 " " " Pearl	17	88		X X X X X	
21 Scott Minnie	6	72	X X		
22 " " Rose	8	76	X X		
23 " " Walter	10	89		X X X X	
24 Stegleman Bertie	11	117		X X X X X	
25 " " " Gerald	15	111		X X X X X	
26 " " " John	17	52		X X X X X	180
27 " " " Viola	19	40		X X X X X	

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—Continued.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Class	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Spelling	Third Reader	Fourth Reader	Oral Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	Speller	Copy Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U.S.	Practice and Theory	Algebra	Physiology	Book-keeping	Drawing	Vocal Music	Agriculture
19 Tarr Charles	14	93												X	X			X	X	X											
20 " Floyd	6	38	X	X																											
21 " Frank	9	113		X		X				X																					
22 " Cora	9	118								X		X	X	X	X																
23 Taylor Nellie	10	96								X		X	X	X	X																
24 " Willie	8	91					X			X	X		Y																		
25 Thompson Mary	8	75					X			X	X		X																		
26 " Willie	6	39	X	X	X																										
27 " Grover	9	75								X	X	X	X	X	X																
28 " Lottie	9	35			X	X				X			X																		
29 Hubbard Clara	10	103	X	X	X																										
30 Yancy Edna	9	23	X	X	X																										
31 " Ethel	7	66	X	X																											
32 Tarr Lottie	4	6																													
33 Franke Emma	7	66																													
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11. Totals, showing number of pupils using each text-book. 6 6 6

Gov. Ex. 24.
2131 Eq.—2-3-15.

Gov. Ex. 24.
Eq. 2131.—2-9-16.

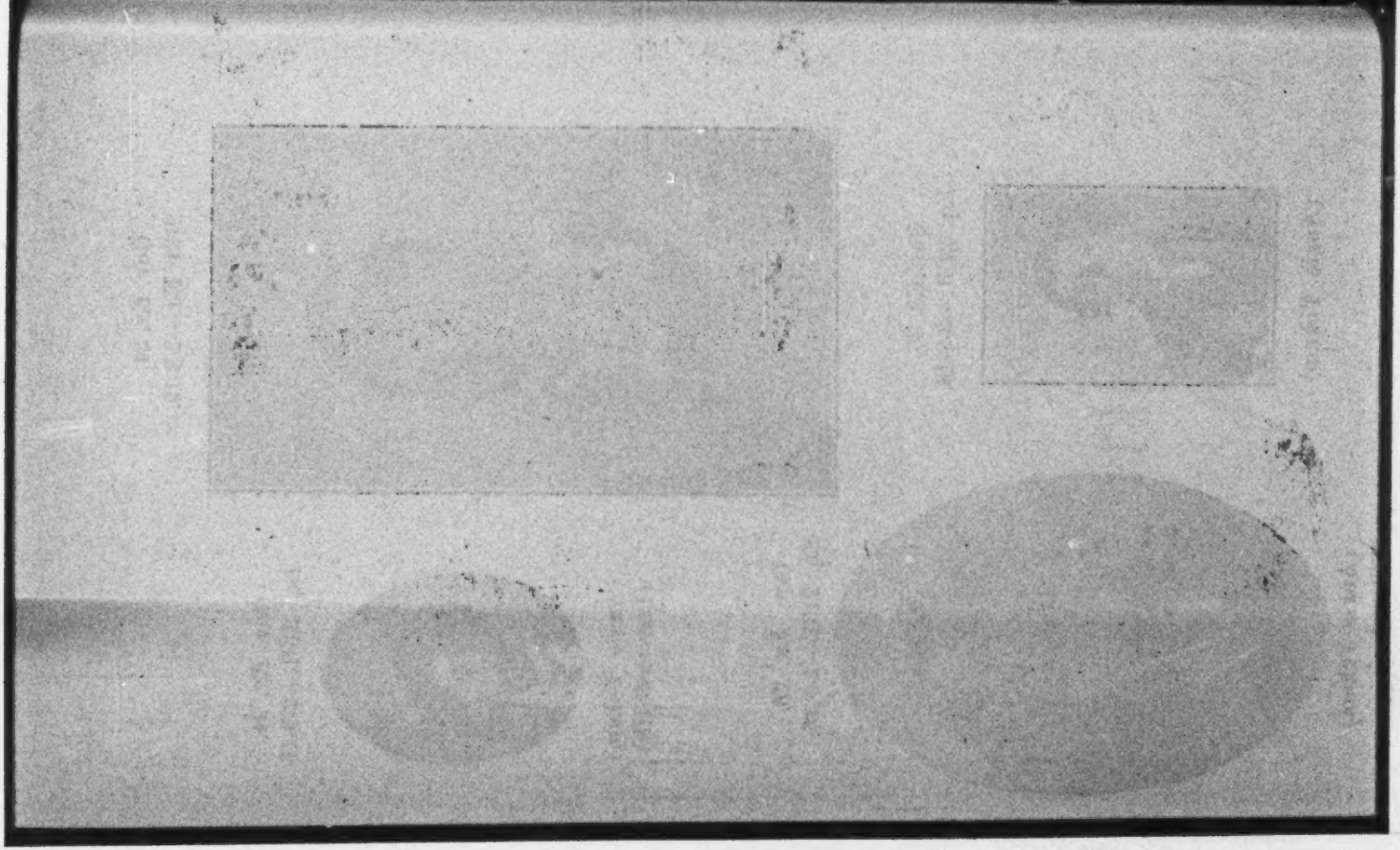
(Angie Yokum)
(Leavenworth)

Gov. Ex. 26.
Eq. 2131.—2-9-16.

(Angie Yokum)

Gov. Ex. 25.
Eq. 2131.—2-9-16.

(Angie Yokum)



Rev. 24-27
Ap 21-31
7/19/16

(No. 13.)

Teacher's Term Report to District Clerk.

1. School District No. 53 County of Leavenworth Kansas.
2. Term opened Sept. 13, 189 7; closed Apr. 7, 189 8
3. Length of term, in weeks, 21; length of term, in school days, 139
4. Teacher's name, Mamie Byron; sex, Female
5. Teacher's certificate — Grade 2 Date Apr 24, 1897 expiration Apr 24, 1899

6. Number of different pupils enrolled in school, . . .
   (1) White: Males 22, Females 17, Total 39
   (2) Colored: Males 1, Females 0, Total 1
   (3) Totals: Males 23, Females 17, Total 40

7. Total attendance in days, ...
   (1) White: Males 1691, Females 1293, Total 2934
   (2) Colored: Males 61, Females 0, Total 61
   (3) Totals: Males 1702, Females 1293, Total 2995

8. Average daily attendance, ...
   (1) White: Males 11 $\frac{81}{139}$, Females 9 $\frac{39}{139}$, Total 21 $\frac{120}{139}$
   ~~(2) Colored: Males 6 $\frac{1}{139}$, Females 0, Total 6 $\frac{1}{139}$~~
   (3) Totals: Males 12 $\frac{23}{139}$, Females 9 $\frac{39}{139}$, Total 21 $\frac{62}{139}$

9. Number of tardinesses, 75 Number neither absent nor tardy, 0

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attended	PRIMARY: Chart; Writing; First Reader; Second Reader; Primary Geography; Primary Arithmetic; Physiology and Hygiene	INTERMEDIATE: Second Reader; Third Reader; Fourth Reader; Oral Work; Intermediate Arithmetic; Intermediate Geography; Language; Physiology and Hygiene	GRAMMAR: Spelling; Copy-Books; Fifth Reader; Arithmetic; Grammar; Geography; U. S. History; Civil Government of U. S.; Physiology and Hygiene
girls					
1 Lottie Fox	15	108		/ / /	/ / /
2 Myrtle Ferris	15	37		/ / / /	/ / / /
3 Lizzie Foster	14	5		/	/ /
4 May Lee	15	98		/ /	/ / / /
5 Stella Lee	7	139	/ / /		
6 Mamie Moore	15	27		/	/ / / /
7 Josie Moore	9	109	/ / /	/ /	
8 Mabel Magill	10	47	/ / /	/ /	
9 Nellie Marshall	6	76	/ /	/ /	
10 Gertie Masters	9	38	/ / / /		
11 Mabel Stigleman	15	90			/ / / / / /
12 Bertie Stigleman	12	109		/ / / / /	/
13 Bessie Stokwell	8	70	/ / / / /	/ /	/
14 May Thompson	9	98	/ / / / /	/ /	/
15 Etta Thompson	9	139	/ / / / /	/ /	/
16 Nellie Taylor	11	96		/ / / / /	/
17 Eva Taylor	9	98	/ / / /		
18					
19 Perry Bradford	15	43		/ / / /	/ / / /
20 J. H. Carter	16	67		/	/ / / / /
21 Ben Fidler	17	69		/	/ / /
22 Chester Lee	8	108		/ / / /	/
23 James Lee	9	139	/ / / /	/ / /	
24 Willie Lee	6	25	/ / / /		
25 Hal Marshall	12	111		/ /	/ / / /
26 Chas Moore	12	109		/ / / /	/

CAUTION

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—Continued.

PRIMARY. INTERMEDIATE. GRAMMAR.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Reader	Third Reader	Fourth Reader	Copy Book	Intermediate Geography	Intermediate Arithmetic	Language	Physiology and Hygiene	Reader	Copy Books	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene			ATTEND.
19 John Stiglemaier	15	179																1	1	1	1	1						
20 Volney B Stiglemaier	13	174										1	1	1	1			1										
21 Joe Stockwell	10	179		1		1		1	1		1																	
22 Grover Thompson	12	93									1		1	1	1	1												
23 Adlai Thompson	5	85	1	1	1			1																				
24 Willie Thompson	6	87	1	1		1		1																				
25 Chas Tarr	15	57										1	1					1		1								
26 Onn Tarr	10	118							1		1		1	1	1	1												
27 Frank Tarr	8	123		1				1	1		1	1																
28 Cloyd Tarr	6	123	1	1	1			1																				
29 Walter Tarr	4	10	1	1	1			1																				
30 Willie Taylor	9	87					1	1	1		1	1	1															
31 Oliver Woodward	10	226		1		1		1	1		1																	
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11. Totals, showing number of pupils using each text-book.			9	20	6	9	21	12		13	7	9	6	10	10	9		17	2	9	5	4	6	5		3		

I hereby certify that the above Term Report is correct.

Mamie Byron, Teacher.

Note (a).—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superintendent of Public Instruction, and the Clerk's copy should be carefully preserved for the guidance of the next teacher, and as the basis for the Annual Report.

[No. 12.]

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept. 13, 1897; closed Apr. 7, 1898.
3. Length of term, in weeks 28; length of term, in school days 140.
4. Teacher's name, Mamie Byron; sex, Female.
5. Teacher's certificate—Grade Second; date Oct 27, 1897; expiration Oct. 29, 1900.
6. Number of different pupils enrolled in school,
   (1) White: Males 18, Females 19, Total 37
   (2) Colored: Males 1, Females 1, Total 2
   (3) Totals: Males 19, Females 20, Total 39
7. Total attendance in days,
   (1) White: Males 1716, Females 1415, Total 3131
   (2) Colored: Males 10, Females 43, Total 53
   (3) Totals: Males 1726, Females 1458, Total 3184
8. Average daily attendance,
   (1) White: Males 12 35/100, Females 10 51/100, Total 22 86/100
   (2) Colored: Males 74/100, Females No, Total 3/10
   (3) Totals: Males 12 41/100, Females 10 55/100, Total 22 96/100
9. Number of tardinesses, 51. Number neither absent nor tardy, 1.
10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	GRADES. PRIMARY. Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	INTERMEDIATE. Speller	Third Reader	Fourth Reader	Copy Book	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	GRAMMAR. Speller	Copy Books	Fifth Reader	Arithmetic	Grammar	U. S. History	Constitution of U. S.	Physiology and Hygiene	Book-keeping	Grade Next	Grade Past	AUTHOR.
1 Carter Viola	11	93																✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
2 Dedden Effie	13	59																✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
3 Fox Lottie	16	34											✓					✓	✓			✓	✓			✓	✓	
4 Graves Hallie	15	15																✓	✓	✓	✓	✓	✓			✓	✓	
5 " Ellura	10	15				✓	✓			✓	✓		✓		✓												✓	✓
6 Herries Lizzie	8	19	✓		✓		✓			✓																	✓	
7 Lee Mary	14	101													✓			✓	✓	✓		✓	✓			✓	✓	
8 " Stella	8	110	✓		✓		✓			✓																	✓	
9 Moore Mamie	16	10																✓	✓	✓	✓	✓					✓	✓
10 " Josie	10	105					✓	✓		✓		✓	✓		✓												✓	✓
11 " Lucy	6	30	✓	✓			✓	✓		✓		✓			✓												✓	✓
12 Marshall Hallie	7	101	✓				✓	✓		✓		✓			✓												✓	✓
13 Stockwell Bessie	9	62					✓	✓		✓	✓	✓			✓												✓	✓
14 Stigleman Mabel	6	101																✓	✓	✓	✓	✓			✓		✓	✓
15 " Bertie	10	101										✓	✓														✓	✓
16 Thompson May	10	111					✓	✓		✓		✓			✓				✓								✓	✓
17 " Lottie	10	101					✓	✓		✓		✓	✓		✓												✓	✓
18 Winfrey Lottie	10	63	✓		✓		✓	✓		✓																	✓	✓
19 " Velma	6	58	✓	✓			✓	✓																			✓	✓
20 Zredenburg Myrtle	8	26	✓	✓			✓	✓																			✓	✓
21 Carter Pet	17	10																✓	✓		✓	✓	✓	✓			✓	✓
22 Kesinger Calie	6	97	✓	✓			✓	✓																			✓	✓
23 Kriemarich Chas	11	84	✓		✓		✓	✓																			✓	✓
24 Lee Chester	13	131										✓	✓					✓	✓		✓	✓					✓	✓
25 " James	9	100					✓	✓		✓		✓	✓		✓												✓	✓
26 " Willie	6	101	✓	✓			✓	✓																			✓	✓

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.

GRADES—Continued.

			PRIMARY.								INTERMEDIATE.						GRAMMAR.											
	Age	No. of days attending	Chart.	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Physiology and Hygiene	Primary Grammar	Second Reader	Third Reader	Fourth Reader	Geography	Intermediate Arithmetic	Language	Physiology and Hygiene	Reader	Geography	U. S. History	Civil Government	Arithmetic	Grammar	Physiology and Hygiene	Physiology and Hygiene	Physiology and Hygiene	Physiology and Hygiene	Physiology and Hygiene
Marshall Wall	13	177																										
Stiglemeier Jno.	17	156																										
" Volney	14	168																										
Stockwell Geo	11	178																										
Tarr Orin	17	157																										
" Frank	9	121																										
" Cloyd	7	122																										
" Walter	5	99																										
Thompson Grant	13	162																										
" Addie	9	125																										
" Willie	7	96																										

11. Totals showing number of pupils using each text-book. 9 | 12 | 4 | 6 | 9 | 25 | 17 | 3 | 6 | 12 | 7 | 2 | 7 | 19 | 18 | 10 | 7 | 11 | 10 | 6 | 5 | 3 | 12 | 5

I hereby certify that the above Term Report is correct.

Mamie Byron, Teacher.

Note 1st—The teacher is not entitled to his last month's salary until this report, in every respect, is made as required by law. A duplicate report should be sent to the County Superintendent of Public Instruction, and the County Clerk should be carefully preserved for the inspection of the Board of Trustees.

(No. 12.)

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept. 11, 1899; closed Apr. 6, 1900.
3. Length of term, in weeks 28; length of term, in school days, 138.
4. Teacher's name, M. V. Bayer; sex, Female.
5. Teacher's certificate—Grade 2, date Oct. 29, 1898; expiration Oct. 29, 1900.

6. Number of different pupils enrolled in school,	(1) White:	Males 20	Females 18	Total 38
	(2) Colored:	Males 0	Females 1	Total 1
	(3) Totals:	Males 20	Females 19	Total 39
7. Total attendance in days,	(1) White:	Males 1572	Females 1570	Total 3142
	(2) Colored:	Males 0	Females 94	Total 94
	(3) Totals:	Males 1572	Females 1664	Total 3236
8. Average daily attendance,	(1) White:	Males 11 3/7	Females 11 3/7	Total 22 6/7
	(2) Colored:	Males 0	Females 7 5/7	Total 7 5/7
	(3) Totals:	Males 11 3/7	Females 12 4/7	Total 29 1/7

9. Number of tardinesses, 110. Number neither absent nor tardy, 3.

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attended	GRADES: PRIMARY — Chart; Writing; Reading; Third Reader; Second Reader; Primary Geography; Primary Arithmetic; Physiology and Hygiene; Oral work	INTERMEDIATE — Preparatory Class; Reader; Third Reader; Fourth Reader; Copy Book; Intermediate Geography; Intermediate Arithmetic; Language; Physiology and Hygiene	GRAMMAR — Reader; Copy Book; Fifth Reader; Arithmetic; Grammar; Geography; U. S. History; Composition of U. S.; Physiology and Hygiene	ATTENDS
1 Carter Viola	17	99			/ / / / / /	
2 Indenburg Myrtle	9	68	/ / / /			
3 Didier Effie	13	101			/ / / / / / /	
4 Fox Lottie	17	53			/ / / / / /	
5 Graves Halle	16	77			/ / / / / / /	
6 " Elmira	11	49	/	/ / / / /		
7 Lee Mary	17	101			/ / / / / / /	
8 " Stella	9	101	/ / / /	/ / / / /		
9 Marshall Nellie	8	101	/ /	/ / / / /		
10 Moore Josie	11	101	/ /	/ / / / /		
11 " Lucy	7	101	/ / / /	/ / / / /		
12 Nodine Flossie	10	7	/ /	/ / / /		
13 Stiglemann Mable	7	101			/ / / / / /	
14 " Bertie	17	101			/ / / / / /	
15 Stockwell Burch	10	52	/	/ / / / /		
16 " Edna	6	25	/ / / /	/ / / / /	/ /	
17 Thompson Mary	11	101	/	/ / / / /		
18 " Lottie	11	101	/	/ / / / /		
19 " Josie	5	62	/ / / /	/ / / / /		
20						
21 Fox Frank	8	7	/ / / /	/ / / / /		
22 Graves Linn	8	63	/ / / /	/ / / / /		
23 Klinger Calvin	7	101	/ / / / / /	/ / / / /		
24 " Henry	5	25	/ / / / / /	/ / / / /		
25 Lee Chester	17	73	/	/ / / / /	/ / / / /	
26 " James	12	73	/	/ / / / /		
27 " Lillie	7	101	/ / / / / /	/ / / / /		

10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—Continued.

ALPHABETICAL LIST OF PUPILS.	Age	No. of days attending	PRIMARY. Spelling	Writing	Drawing	Third Reader	Second Reader	First Reader	Primary Geography	Primary Arithmetic	Primary Oral Lessons	Physiology and Hygiene	INTERMEDIATE. Writing	Speller	Third Reader	Fourth Reader	Geography	Intermediate Arithmetic	Language	Physiology and Hygiene	GRAMMAR. Speller	Copy Books	Fifth Reader	Arithmetic	Grammar	Geography	U.S. History	Constitution of U.S.	Physiology and Hygiene			ATTEND.
20 Moore Chas	14	108																														
20 " Laurence	7	106	1	1	1					1	1																					
21 " Frank	4	10	1	1						1	1																					
22 Moore Richard	10	108											1	1		1	1	1	1													
22 " Thos	7	92	1	1			1	1		1	1																					
24 " Willie	16	82	1	1	1					1	1																					
25 Stegleman John	20	104																1			1		1		1							
25 " Volney	16	102															1				1		1		1							
27 Thompson Orin	17	94									1				1	1	1				1											
28 " Addai	6	104	1	1			1	1	1	1						1			1													
29 " Willie	8	108						1	1	1			1	1		1			1													
30 Darr Orin	13	94								1	1					1	1	1	1													
31																																
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11. Totals, showing number of pupils using each text-book, 19 13 7 4 9 13 24 5 7 5 7 13 10 9 11 14 13 7 11 9 11 5 3 7

I hereby certify that the above Term Report is correct.

Mamie V. Byron, Teacher.

Note (a).—The teacher is not entitled to his last month's salary until this report is made as required by law. A duplicate report should be sent to the County Superin-

No. 18.

Teacher's Term Report to District Clerk.

1. School District No. 53, County of Leavenworth, Kansas.
2. Term opened Sept 16, 1895; closed Apr. 2, 1896
3. Length of term, in weeks, 24; length of term, in school days, 140.
4. Teacher's name, J. C. Haley; sex, Male.
5. Teacher's certificate—grade 2d, date July 27, 1895; expiration July 27, 1897
6. Number of different pupils enrolled in school, (1) White: Males 27, Females 220, Total 49. (2) Colored: Males, Females, Total. (3) Total: Males, Females, Total.
7. Total attendance in days, (1) White: Males 1781, Females 1508, Total 3289. (2) Colored: Males, Females, Total. (3) Total: Males, Females, Total.
8. Average daily attendance, (1) White: Males 12.8, Females 10.7, Total 23.6. (2) Colored: Males, Females, Total. (3) Total: Males, Females, Total.
9. Number of tardinesses, 365. Number neither absent nor tardy, 1.
10. Schedule showing the name and age of every pupil enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

ALPHABETICAL LIST OF PUPILS	Age	No. of days attending	GRADES. PRIMARY. Chart	Writing	First Reader	Second Reader	Primary Geography	Primary Arithmetic	Primary Language and Letters	INTERMEDIATE. Spelling	Third Reader	Fourth Reader	Oral Drill	Intermediate Arithmetic	Intermediate Geography	Language	Physiology and Hygiene	GRAMMAR. Spelling	Oral Drill	Fifth Reader	Arithmetic	Grammar	Geography	U. S. History	Constitution of U. S.	Physiology and Hygiene	Book-keeping	Algebra	Natural Philosophy	AUTHOR.
Bessie Shaw	16	4																											
Bradford Perry	13	93								1		1	1	1															
Emma Straby	10	1					1	1		1	1		1																
" Abrah	15	6																1	1	1		1							
" Chas	12	31					1	1			1		1																
Carter Viola	13	63												1	1	1		1	1										
" Al	16	75												1	1	1		1				1							
Graves Nellie	13	62												1	1	1		1	1										
" Laura	7	39	1	1																									
" Rache	18	76																1	1	1	1	1	1	1	1	1			
" Sidney	17	32												1	1	1		1	1			1	1						
Hill Fred	13	26												1	1	1		1	1	1									
" Edith	14	24					1	1			1	1																	
" Laurence	8	22	1	1																									
" Ewart	6	6	1	1																									
Lee May	13	88												1	1	1	1	1	1			1							
" Ida	19	61																1	1	1	1	1	1	1	1	1			
" Robert	17	61																1	1	1	1	1	1		1	1			
" Hester	10	83					1			1	1	1	1																
" James	9	91	1	1	1																								
Mock Mamie	13	88												1	1	1	1	1				1							
" Jasie	7	45	1	1																									
" Perley	16	6												1	1	1	1	1				1							
" Neal	10	85					1			1	1	1	1																
Magill Orafel	8	80	1		1	1																							
" Willie	5	75	1	1																									
Scott Rosa	7	81	1	1																									

10. Schedule showing the name and age of all pupils enrolled, attendance in days, and page of text-book up to which satisfactory work has been done, and at which the teacher recommends that the pupil be allowed to begin next term's work.

GRADES—CONTINUED.

PRIMARY. INTERMEDIATE. GRAMMAR.

ALPHABETICAL LIST OF PUPILS.	No. of days attending	Child's Book	Primer	First Reader	Second Reader	Third Reader	Fourth Reader	Fifth Reader	Sixth Reader	Seventh Reader	Eighth Reader	Elementary Arithmetic	Intellectual Arithmetic	Written Arithmetic	Elementary Geography	Descriptive Geography	Physical Geography	Outlines of History	English History	United States History	Elementary Grammar	Analysis	Technical Grammar	Composition and Rhetoric	Physiology and Hygiene	Book-keeping	Algebra	Natural Philosophy	Astronomy	Botany	Geometry	Chemistry	Mental Philosophy	Political Economy	Latin	Greek	French	German	Higher Mathematics	Natural Science	Logic	Rhetoric	Moral Philosophy	Constitution of U.S.	Civil Government	Theory and Practice	Elocution	Vocal Music	Drawing	Writing	Average Standing
20 Scott Walter	9																																															
20 Stephenson Alvie	18																																															
21 " Orabel	14																																															
22 " Bertie	11																																															
23 " Lou	4																																															
24 " Tolmy	2																																															
25 Sepetafella	9																																															
26 Fair Chas	13																																															
27 " Orrin	9																																															
28 " Frank	7																																															
29 Taylor Nellie	9																																															
30 " Willie	7																																															
31 Thompson Lottie	8																																															
32 " May	7																																															
33 " Joseph	10																																															
34 " Willie	5																																															
35 Woodward Willie	11																																															
36 " Ollie	9																																															
37 Wright Emmett	12																																															
38 " Nellie	8																																															
39 " Eddie	5																																															
40																																																
41 Report Text book																																																
42 Close of Term																																																
43																																																
44																																																
45																																																
46																																																
47																																																
48																																																
49																																																
50																																																
51																																																
52																																																
53																																																
54																																																
55																																																
56																																																

11. Totals, showing number of pupils using each text-book.

I hereby certify that the above Term Report is correct.

..... Teacher.

NOTICE.—The ... for is not entitled to his last month's salary until this report is made as required by law. A ... report ... sent to the County Superintendent of ... [illegible] ... it is ... entitled to receive ... for the ... of the next term ... the data for the Annual Report.

GOVERNMENT'S EXHIBIT 24.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph indorsed on back Angie Yokum, Leavenworth.]

Government's Exhibit 25.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph endorsed on back Angie Yokum.]

Government's Exhibit 26.

Eq. 2131—2-9-16.

[See insert herewith for reproduction of small photograph endorsed on back Angie Yokum.]

Government's Exhibit 27.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 13, 1897, to April 7, 1898.]

Government's Exhibit 28.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 13, 1898, to Apr. 7, 1899.]

Government's Exhibit 29.

Eq. 2131.—2-9-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 11, 1899, to Apr. 6, 1900.]

Government's Exhibit 30.

Eq. 2131.—2-10-16.

[See insert herewith for photographic reproduction of Teacher's School Report, Sept. 16, 1895, to Apr. 3, 1896.]

Government's Exhibit 31.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

No. 18.

Annual Report of ..... *School District No. 53 Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1894. Made under official oath, and transmitted to the County Superintendent, this 27 day of July, A. D. 1894.

(Signed) M. L. Stigleman,

of ..... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Borst, Charles	15	23	Scott, Walter	8
2	Bradford, Perry	13	24	Scripter, Lola	8
3	Carter, H	14	25	Stigleman, Bertie	10
4	Carter, Viola	12	26	Stigleman, Mabel	12
5	Carr, David	16	27	Stigleman, Viola	16
6	Graves, Hallie	11	28	Stigleman, Volney	12
7	Graves, George	21	29	Stigleman, John	15
8	Graves, Sidney	16	30	Tarr, Charles	12
9	Graves, Rashe	19	31	Tarr, Orin	8
10	Graves, Laurie	6	32	Tarr, Frank	6
11	Lee, Alexander	17	33	Taylor, Nellie	8
12	Lee, Chester	9	34	Taylor, Willie	6
13	Lee, James	6	35	Thompson, Grover	9
14	Lee, May	12	36	Thompson, Lottie	7
15	Lee, Robert	16	37	Worthington, Whital	19
16	Moore, Charley	9	38	Worthington, Mark	16
17	Moore, Maime	12	39	Wright, Eddie	12
18	Moore, Josie	6	40	Wright, Nannie	10
19	Moore, Pearl	15	41	Wright, Nellie	7
20	Moore, Myrtle	17	42	Thompson, May	6
21	Scott, Mamie	4	43	Lottie, Wright	5
22	Scott, Rose	6	44	Viola Tarr	16

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

1. Number of persons between the ages of 5 and 21 years residing in district June 30, 1894. Note.—Under Item 1, see note on last page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.....	22	17	39
(2) Colored....	1	1	2
(3) Totals.....	23	18	41

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.....	..	..	41
(2) Colored.....	..	..	..
(3) Totals.....	..	..	..

3. Number of days of school taught during the year (see Teacher's Term Reports.....Total 140

4. Total number of days' attendance (see Teacher's Term Reports).

	Males.	Females.	Total.
(1) White.....	..	..	..
(2) Colored.....	..	..	..
(3) Totals.....	..	..	3441 1/6

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.....	..	..	..
(2) Colored.....	..	..	..
(3) Totals.....	..	..	396 9/10

6. Number of teachers required .....; Number of different teachers employed.....Total 1

Names of Teachers, Jesse A. Hall; Grade of Certificate, 2nd; Weeks Employed, 28; Wages per Month, 37½.

---

7. Total salary paid male teachers for the year....$262.50
8. Total months taught by male teachers.....7
9. Total salary paid female teachers for the year.....

10. Total months taught by female teachers.....
11. Average salary of male teachers (divide item 7 by item 8).....
12. Average salary of female teachers (divide item 9 by item 10).....
13. Length of school term, in weeks, taught by legally-qualified teachers.....20
14. Total levy for school purposes for the year ending June 30, 1895.....9 Mills.
15. Estimated value of school property, including buildings and grounds.....$400.00
16. Number of schoolbuildings.....2
17. Number of schoolrooms.....2
18. Number of school houses built in year ending June 30, 1894.....
19. Cost of same.....rough guess..$1,500.00

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.
1. Balance in hands of District Treasurer July 1, 1894.....	$ 7.54
2. Amount received from County Treasurer from district taxes.....	288.77
3. Amount received from State and County school funds, apportioned to the district.....	60.65
4. Amount received from the sale of bonds.....	.....
5. Amount received from all other sources	.....
6. Total amount received during the year for school purposes.....	$356.96

Expenditures.	Expenditures.
7. Amount paid out during the year for teachers' wages and supervision.....	$ 262.50
8. Amount paid for rents, repairs, fuel, and other incidentals.....	31.15
9. Amount paid for district library and school apparatus.....	20.00
10. Amount paid for sites, buildings, and furniture	.....
11. Amount paid for all other purposes.....	.....
12. Total amount paid out during the year for school purposes.....	$ 313.65

13.	Balance in hands of District Treasurer June 30, 1895.	43.31
14.	Total receipts and expenditures, balanced. . . .	$ 356.96

GRADES.

(School District Clerks are requested to make an accurate report of the text-books used.)

Primary.

Name of Author.	Text-books.
Bells	Chart
	Writing
"	First Reader
Monroes	Second Reader
Warrens	Geography
Rays	Arithmetic
Smiths	Physiology and Hygiene

Intermediate.

Monroes	Speller
"	Third Reader
"	Fourth Reader
Spencer	Copy Book

Grammar.

Monroes	Speller
Spencerian	Copy Book
Monro	Fifth Reader
Rayse	Arithmetic
Reed & Kellog	Grammar
Warner	Geography
Barnes	U. S. History
	Constitution of U. S.
Hutchisons	Physiology and Hygiene

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 27th day of July, A. D. 1894, the following persons were duly elected and qualified as officers of ..... School District No. ....., County of ....., State of Kansas:

Director, W. T. Moore; Post Office, Ackerland.
Clerk, M. L. Stigleman; Post Office, Ackerland.
Treasurer, Robert Lee; Post Office, Ackerland.

Dated this 27 day of July, 1895.

M. L. Stigleman, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 60, School Laws 1891. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 16, School Laws 1891, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 13, of all the facts therein called for. (See sec. 79, School Laws 1891.)

2. That the District Clerk draw all orders, both on the County Treasurer and the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee, and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 20, School Laws 1891, notify each District Clerk of his willingness to assist in completing this report, if necessary; and that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on reports of District Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4 and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from Clerks of cities of the first and second class, so that the public can know what is being done toward educating the colored people of our State.

Very respectfully,

H. N. Gaines, State Superintendent.

(On back:) Annual Report of School District No. .... for the Year ending June 30, 1894. ....., District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of

children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 62, School Laws of 1891.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 60, School Laws of 1891, last clause.)

Filed this ..... day of ....., 1895. ...., County Superintendent. Hamilton Ptg. Co.: Edwin H. Snow, State Printer. C. J. Post.

Government's Exhibit 32.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

No. 18.

Annual Report of ..... *School District No. 53, Count.. of Leavenworth List of all between the age of 5 and 21 State of Kansas, for the year ending June 30, 1895. [Portion marked out with pen] 29 day of July, A. D. 1893.5

(Signed) M. L. Stigleman, Clerk

of ..... District No. 53,

Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Borst, Henry	18	26	Stigleman, Mable	13
2	Borst, Charles	15	27	Stigleman, Viola	16
3	Carter, H	14	28	Stigleman, Volney	12
4	Carter, Viola	12	29	Stigleman, John	16
5	Graves, Hall	11	30	Tarr, Charles	12
6	Graves, George	21	31	Tarr, Orin	8
7	Graves, Sidney	16	32	Tarr, Frank	6

	Names.	Ages. (years)		Names.	Ages. (years)
8	Graves, Rashe	19	33	Thompson, Grover	9
9	Graves, Laurie	6	34	Thompson, Lottie	7
10	Lee, Alexander	17	35	Worthington, Whital	19
11	Lee, Robert	16	36	Wright, Eddie	12
12	Lee, Chester	9	37	Wright, Nannie	10
13	Lee, James	6	38	Wright, Nellie	7
14	Lee, May	12	39	Magill, Mabel	7
15	Lee, Stella	6	40	Magill, Willie	6
16	Moore, Charles	9	41	Parret, Fred	17
17	Moore, Maimie	12	42	Hill, Konith	12
18	Lee, Josie	6	43	Hill, Edith	10
19	Lee, Pearl	15	44	Hill, Laurence	8
20	Bradford, Perry	13	45	Hill, Evert	6
21	Bradford, Myrtle	17	46	Kessinger, Nellie	19
22	Scott, Walter	8	47	Norris, Nora	18
23	Scott, Maimme	4	48	Tarr, George	18
24	Scott, Rozy	6	49	Viola, Tarr	16
25	Stigleman, Bertie	10	50	Dolla Wright	5

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

[Various statistics, memoranda, etc., not filled in.]

To County Superintendents and District Clerks:

[Rules and regulations as to reports same as in Government's Exhibit 31.]

Very respectfully,

H. N. Gaines, State Superintendent.

(On back:) Annual Report of School District No. 53 for the Year ending June 30, 1895. M. L. Stigleman, District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be

partly situated." (Sec. 62, School Laws of 1891.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 60, School Laws of 1891, last clause.) List of names of all between the age 5 and 21 Filed this thirtieth day of July, 1895. ..... County Superintendent. Hamilton Ptg. Co.: Edwin H. Snow, State Printer. C. J. Post.

Government's Exhibit 33.

Eq. 2131.—2-10-16.

(No. 18.)

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school money to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of ..... *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1896. Made under official oath, and transmitted to the County Superintendent, this 8th day of August, A. D. 1896.

(Signed) M. L. Stigleman,
of ..... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Borst, Henry	19	25	Scott, Walter	8
2	Borst, Charles	16	26	Scott, Maimme	7
3	Carter, Henry	15	27	Scott, Rozy	5
4	Carter, Viola	13	28	Stigleman, Bertie	11
5	Graves, Halla	12	29	Stigleman, Mabel	14
6	Graves, Sidney	17	30	Stigleman, Viola	17
7	Graves, Rash	20	31	Stigleman, Volney	13
8	Graves, Laura	7	32	Stigleman, John	16
9	Graves, Limly	5	33	Tarr, Charles	13

	Names.	Ages. (years)		Names.	Ages. (years)
10	Lee, Alexander	18	34	Tarr, Orin	9
11	Lee, Robert	17	35	Tarr, Frank	7
12	Lee, Chester	10	36	Thompson, Grover	10
13	Lee, James	7	37	Thompson, Lottie	8
14	Lee, May	13	38	Magil, Mabel	8
15	Lee, Stella	7	39	Magil, Willie	7
16	Lee, William	5	40	Kessinger, Nellie	20
17	Moore, Pearly	16	41	Norris, Nora	20
18	Moore, Charley	10	42	Tarr Georg	19
19	Moore, Maimie	12	43	Brown, Viola	17
20	Moore, Josie	7	44	Wodard, Dell	7
21	Bradford, Perry	19	45	Wodard, Oliver	5
22	Bradford, Myrtle	18	46	Yonley, Florence	7
23	Marshell, Halla	7	47	Yonley, Fred	5
24	Marshell, Nellie	5			

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

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1. Number of persons between the ages of 5 and 21 years residing in district June 30, 1896. Note.—Under item 1. see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	24	19	..
(2) Colored.	..	..	..
(3) Totals.	..	..	..

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.	26	21	..
(2) Colored.	1	1	..
(3) Totals.	27	22	49

3. Number of days of school taught during the year (see Teacher's Term Reports). . . . . Total 140

4. Total number of days' attendance (see Teacher's Term Reports)

	Males.	Females.	Total.
(1) White.....	1781	1508	3289
(2) Colored.....	..	..	..
(3) Totals.....	..	..	..

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.....	12.8	10.7	23.5
(2) Colored.....	..	..	..
(3) Totals.....	..	..	..

6. Number of teachers required 1; number of different teachers employed.....Total 1

Names of Teachers, J. L. Tkelsee; Grade of Certificate, 2nd; Weeks Employed, 28; Wages per Month, 40.

7. Total salary paid male teachers for the year.....$280.00
8. Total months taught by male teachers.....7
9. Total salary paid female teachers for the year.....
10. Total months taught by female teachers.....
11. Average salary of male teachers (divide item 7 by item 8).....
12. Average salary of female teachers (divide item 9 by item 10).....
13. Length of school term, in weeks, taught by legally qualified teachers.....
14. Total levy for school purposes for the year ending June 30, 1896.....9 Mills.
15. Estimated value of school property, including buildings and grounds.....$500
16. Number of school buildings.....2
17. Number of schoolrooms.....2
18. Number of schoolhouses built in year ending June 30, 1896.....
19. Cost of same.....

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.
1. Balance in hands of District Treasurer July 1, 1895.....	$ 43.31
2. Amount received from County Treasurer from district taxes.....	240.38
3. Amount received from State and Coun-	

Receipts.		Receipts.
ty school funds, apportioned to the district.	41.80	
4. Amount received from the sale of school bonds.		
5. Amount received from all other sources	325.49	
6. Total amount received during the year for school purposes.	325.48	

Expenditures.		Expenditures.
7. Amount paid out during the year for teachers' wages and supervision.		$ 280.00
8. Amount paid for rents, repairs, fuel, and other incidentals.		35.99
9. Amount paid for district library and school apparatus.		
10. Amount paid for sites, and furniture.		
11. Amount paid for all other purposes.		
12. Total amount paid out during the year for school purposes.		$ 315.99
13. Balance in hands of District Treasurer June 30, 1896.		9.50
14. Total receipts and expenditures, balanced. . . .		$ 325.49
15. Outstanding orders (Nos. . . . .) . . Total		$

GRADES.

(School-District Clerks are requested to make an accurate and complete report of text-books used.)

Primary.

Name of Author.	Text-Books.
Bells.	Chart
Spencers.	Writing
Monroes.	First Reader
Monroes.	Second Reader
Warren.	Geography
Rays.	Arithmetic
Hutchison. . . .	Physiology and Hygiene

Intermediate.

Monroes.	Speller
Monroe.	Third Reader
Monroe.	Fourth Reader
Spencer.	Copy Book

Name of Author.	Text-Books.
Warren	Arithmetic
Arythemetic	Geography
. . . .	Language
Hutchison	Physiology and Hygiene

Grammar.

Warners	Geography
Barnes	U. S. History
Andrews	Constitution of U. S.
Hutchison	Physiology and Hygiene

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 25th day of July, A. D. 1896, the following persons were duly elected and qualified as officers of ..... School District No. 53, County of Leavenworth, State of Kansas:

Director, ...; Post Office, ...
Clerk, ...; Post Office, ...
Treasurer, Robert Lee; Post Office, Ackerland

Dated this 8 day of August, 1896.

M. L. Stigleman, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 68, School Laws 1893. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 16, School Laws 1893, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 15, of all the facts therein called for. (See sec. 89, School Laws 1893.)

2. That the District Clerk draw all orders, both on the County Treasurer and the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 20, School Laws 1893, notify each District Clerk of his willingness to assist in completing this report, if necessary; and

that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on the reports of Distrct Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4, and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from Clerks of cities of the first and second class, so that the public can know what is being done toward educating the colored people of our State.

Very respectfully,

E. Stanley, State Superintendent.

(On back:) Annual Report of ..... School District No. ....., for the Year ending June 30, 189.. ...., District Clerk. This report should be made out, read to the District Meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 70, School Laws of 1893.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 68, School Laws of 1893, last clause.) Filed this .... day of ....., 189.. ....., County Superintendent. C. J. Post.

Government's Exhibit 34.

Eq. 2131.—2-10-16.

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school moneys to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of ..... *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1897. Made under official oath, and transmitted to the County Superintendent, this 30th day of July, A. D. 1897.

(Signed) M. L. Stigleman,
of ..... District No. 53,
Leavenworth County, Kansas.

*If the report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)
1	Borst, Chaley	18
2	Carter, H	16
3	Carter, Viola	15
4	Graves, Sidney	18
5	Graves, Hallie	14
6	Graves, Laura	8
7	Graves, Lynn	6
8	Graves, Rashe	19
9	Lee, Alexander	20
10	Lee, Robert	17
11	Lee, Chester	12
12	Lee, James	8
13	Lee, May	14
14	Lee, Stela	8
15	Lee, William	6
16	Moore, Pearly	17
17	Moore, Charles	12
18	Moore, Mamie	15
19	Moore, Josie	8
20	Bradford, Perry	15
21	Bradford, Myrtle	19
22	Marshall, Hall	12
23	Marshall, Nellie	7
24	*Sott*, Walter	9
25	*Sott*, Mamie	8
26	*Sott*, Rosa	7
27	Stigleman, Bertie	12
28	Stigleman, Mabel	16
29	Stigleman, Viola	19
30	Stigleman, Volney	14

1898

	Names.	Ages. (years)
1	Chas. Borst	19
2	Hal Marshall	13
3	Nellie Marshall	7
4	Lilie Harris	9
5	Robert Lee	18
6	Chester Lee	13
7	James Lee	9
8	May Lee	15
9	Stella Lee	8
10	Willie Lee	7
11	Pearly Mover	18
12	Chas. Mover	13
13	Mamie Mover	16
14	Josie Mover	9
15	Lawrence Mover	6
16	Bertie Stigleman	13
17	Mabel Stigleman	17
18	Viola Stigleman	20
19	John Stigleman	18
20	Volney Stigleman	15
21	Chas. Tarr	15
22	Orin Tarr	11
23	Frank Tarr	9
24	Cloyd Tarr	7
25	Walter Tarr	6
26	Grover Thompson	13
27	Lottie Thompson	10
28	Lottie Fox	16
29	Lizzie Fidler	16

	Names.	Ages. (years)
31	Stigleman, John	17
32	Tarr, Chaley	14
33	Tarr, Orin	10
34	Tarr, Frank	8
35	Thompson, Grover	11
36	Thompson, Lottie	9
37	McMagik, Mabel	9
38	McMagik, Wilie	8
39	Tarr, Georg	20
40	Kessnger, Calvan	5
41	Brown, Viola	18
42	Wodard, Della	8
43	Wodard, Oliver	6
44	Yonley, Florence	8
45	Yonley, Fred	6
46	Thompson, Willie	7
47	Thompson, May	9
48	Holliday, Jenny	19
49	Holliday, Nannie	19
50	Fidler, Effie	11
51	Fox, Lottie	14
52	Harries, Lizzie	8
53	Pranka, Emma	8
54	Davis, Mable	15
55	Davis, Richard	7
56	Cooley, Lottie	6
57	Mohan, Josie	6
58	Tarr, Cloyd	7
59	Stockwell, Joseph	8
60	Stockwell, Bevil	6

	Names.	Ages. (years)
30	May Thompson	10
31	Adloi Thompson	6
32	Willie Thompson	7
33	Mabel Magill	11
34	Willie Magill	8
35	Sidney Gravs	19
36	Hallie Gravs	15
37	Loure Gravs	9
38	Lynn Gravs	7
39	Myrtel Fredaboy	8
40	H Carter	17
41	Viola Carter	16
42	Richard Mosas	8
43	Thomas Mosas	6
44	Albert Auston	10

In cities of the first or second class, the school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the Board of Education, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

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1. Number of persons between the ages of 5 and 21 years residing in district June 30, 189... Note.—Under item 1, see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	24	17	41
(3) Totals.	26	18	..
(2) Colored. . . .	2	1	3

2. Number of different persons attending school this year (see Teacher's Register).

1898

	Males.	Females.	Total.
(1) White.	39	..	..
(2) Colored. . . .	1	..	..
(3) Totals.	40	..	..

3. Number of days of school taught during the year (see Teacher's Term Reports).

4. Total number of days' attendance (see Teacher's term reports).

	Males.	Females.	Total.
(1) White.	1641	1239	2934
(2) Colored. . . .	61	0	61
(3) Totals.	..	..	..

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White. 11	112/109	9 42/109	21 15/139
(2) Colored.	61/139	0	61/139
(3) Totals.	..	..	..

6. Number of teachers required 1; number of different teachers employed, 1.

Names of Teachers, Minnie Byron; Grade of Certificate, 2; Weeks Employed, 28; Wages per Month, 35.

1898

7. Total salary paid male teachers for the year. . . . . .
8. Total months taught by male teachers. . . . . .
9. Total salary paid female teachers for the year. $245
10. Total months taught by female teachers. 7
11. Average salary of male teachers (divide item 7 by item 8). . . . . .
12. Average salary of female teachers (divide item 9 by item 10). $35
13. Length of school term, in weeks, taught by legally qualified teachers. 28
14. Total levy for school purposes for the year ending June 30, 1899. . . . . 9 Mills
15. Estimated value of school property, including buildings and grounds. $500
16. Number of school buildings. 1
17. Number of schoolrooms. 2

18. Number of schoolhouses built in year ending June 30, 189.....
19. Cost of same.....

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

Receipts.	Receipts.	1898
1. Balance in hands of District Treasurer July 1, 1897.....	$ 9.50	44.76
2. Amount received from County Treasurer from district taxes.....	281.50	209.89
3. Amount received from State and County school funds, apportioned to the district.....	38.66	48.55
4. Amount received from the sale of school bonds.....		———
5. Amount received from all other sources.....		303.20
6. Total amount received during the year for school purposes.....	$ 329.66	
Expenditures.	**Expenditures.**	
7. Amount paid out during the year for teachers' wages and supervision...	24.5	$ 270.00
8. Amount paid for rents, repairs, fuel, and other incidentals.....	22.05	14.90
9. Amount paid for district library and school apparatus.....		
10. Amount paid for sites, buildings, and furniture.....		
11. Amount paid for all other purposes..		329.66
12. Total amount paid out during the year for school purposes.....	267.05	284.90
13. Balance in hands of District Treasurer June 30, 1897.....8...1898..	36.15	44.76
14. Total receipts and expenditures, balanced.....(303.20)	$329.66	
15. Outstanding orders (Nos. .....).....Total		

GRADES.

[Blanks same as in Government's Exhibit 33—not filled in.]

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 25th day of July, A. D. 1898, the following persons were duly elected and qualified as officers of Brown School District No. 53, County of Leavenworth, State of Kansas:

Director, James Thompson; Post Office, McLouth
Clerk, ...; Post Office, ...
Treasurer, ..., Post Office, ...

Dated this 28 day of July, 1898.

C. J. Post, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

[Rules and regulations as to reports same as in Government's Exhibit 33.]

Very respectfully,

E. Stanley, State Superintendent.

(On back:) [Same as in Government's Exhibit 33.]

C. J. Post.

Government's Exhibit 35.

Eq. 2131.—2-10-16.

(No. 18.)

This report must be made in duplicate—one copy retained by the District Clerk, and the other forwarded to the County Superintendent immediately after the annual meeting.

The County Superintendent is instructed not to appropriate school money to districts whose reports have not been made out and transmitted, as required by law.

Annual Report of Brown *School District No. 53, Count.. of Leavenworth, State of Kansas, for the year ending June 30, 1900. Made under official oath, and transmitted to the County Superintendent, this .... day of Aug, A. D. 1900.

(Signed) C. J. Post,
of ..... District No. ....
....., County, Kansas.

*If report of schools of a city, the name of the city should be written before the word "district." If of schools in a joint district, the word "joint" should be written before the word "district."

COMPLETE CENSUS OF SCHOOL POPULATION.

	Names.	Ages. (years)		Names.	Ages. (years)
1	Viola Carter	17	22	Hal Marshall	14
2	Myrtel Fredenburg	9	23	Chas. Moore	14
3	Lottie Winfrey	17	24	Laurance Moore	7
4	Halle Graves	16	25	Frank Moore	5
5	Ellurg Graves	11	26	Richard Moses	10
6	May Lee	17	27	Thos. Moses	7
7	Stella Lee	9	28	Willie Moses	6
8	Nellie Marshall	8	29	John Stigleman	20
9	Josie Moore	11	30	Volney Stigleman	16
10	Lucy Moore	7	31	Grover Thompson	14
11	Mabel Stigleman	17	32	Adlai Thompson	6
12	Bertie Stigleman	14	33	Willie Thompson	8
13	May Thompson	11	34	H. Carter	19
14	Lottie Thompson	11	35	Adam Schultz	18
15	Josie Thompson	6	36	Perel Moore	20
16	Linn Graves	8	37	Liddy Brown	17
17	Calvin Kesinger	7	38	Lizzie Harris	8
18	Henry Kesinger	6	39	Josie Mohan	7
19	Cester Lee	14	40	Nell Mohan	5
20	James Lee	12	41	Bessie Strifler	10
21	Willis Lee	7	42	Cliford Strifler	7

The school census may be accepted by the County Superintendent, upon affidavit of the Clerk of the District, without making the above enrollment.

The County Superintendent is not authorized to accept incomplete or incorrect reports.

1. Number of persons between ages of 5 and 21 years residing in district June 30, 1900. Note.—Under item 1, see note on fourth page of this report, for Joint Districts.

	Males.	Females.	Total.
(1) White.	21	19	40
(2) Colored. . . .	1	1	2
(3) Totals.	22	20	42

2. Number of different persons attending school this year (see Teacher's Register).

	Males.	Females.	Total.
(1) White.	20	18	38
(2) Colored. . . .	0	1	1
(3) Totals.	20	19	39

3. Number days of school taught during the year (see Teacher's Term Reports). 138

4. Total number of days' attendance (see Teacher's Term Reports)

	Males.	Females.	Total.
(1) White.	1572	1570	3142
(2) Colored. . . .	0	94	94
(3) Totals.	1572	1664	3236

5. Average daily attendance for year (total days' attendance divided by total days of school).

	Males.	Females.	Total.
(1) White.	11 9/23	11 26/69	23 53/69
(2) Colored. . . .	0	47/69	47/69
(3) Totals.	11 9/23	12 4/69	23 53/69

6. Number of teachers required, 1; number of different teachers employed. . . . . .

Names of Teachers, Minnie Byron; Grade of Certificate, 2; Weeks Employed, 28; Wages per Month, 40.

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7. Total salary paid male teachers for the year. . . . . .
8. Total months taught by male teachers. . . . . .
9. Total salary paid female teachers for the year. . . . $280
10. Total months taught by female teachers. 7
11. Average salary of male teachers (divide item 7 by item 8). . . . . .
12. Average salary of female teachers (divide item 9 by item 10). . . . . $ 40
13. Length of school term, in weeks, taught by legally qualified teachers. 28
14. Total levy for school purposes for the year ending June 30, 1901. . . . . Mills.
15. Estimated value of school property, including buildings and grounds. $600
16. Number of school buildings. 1
17. Number of schoolrooms. 1
18. Number of schoolhouses built in year ending June 30, 1900. 0
19. Cost of same. 0
20. Amount for which schoolhouse is insured. . . . . $ 400

21. Amount paid for insuring schoolhouse..... $ 8
22. Amount received from insurance companies for losses 0
23. Is the state series of text-books used in your district? Yes

FINANCIAL EXHIBIT.

Note.—This Report must balance with the Treasurer's books.

	Receipts.	Receipts.
1. Balance in hands of District Treasurer July 1, 1899.....	$ .77	
2. Amount received from County Treasurer from district taxes.....	267.44	
3. Amount received from state and county school funds apportioned to the district.....	18.04	
4. Amount received from the sale of school bonds.....		
5. Amount received from all other sources	3.75	
6. Total amount received during the year for school purposes.....	290.00	

	Expenditures.	Expenditures.
7. Amount paid out during the year for teachers' wages and supervision.....		$ 280.00
8. Amount paid for rents, repairs, fuel, and other incidentals.....		10.00
9. Amount paid for district library and school apparatus.....		
10. Amount paid for sites, buildings, and furniture		
11. Amount paid for all other purposes.....		
12. Total amount paid out during the year for school purposes.....		$ 290.00
13. Balance in hands of District Treasurer June 30, 1900.....		
14. Total receipts and expenditures, balanced.....	$ 290.00	$
15. Outstanding orders (Nos. .....)....Total		$ 290.00

DISTRICT CLERK'S REPORT OF OFFICERS ELECTED AND QUALIFIED.

County Superintendent:

Sir—On the 26th day of July, A. D. 1900, the following persons were duly elected and qualified as officers of ..... School District No. ...., County of ....., State of Kansas:

Director, ...; Post-office, ...
Clerk, James A. Mohan; Post-office, Springdale
Treasurer, ...; Post-office, ...
Dated this ..... day of ....., 1900.

C. J. Post, District Clerk.

Remark.—The above returns are required by law to be made to the County Superintendent within Two Weeks after the election and qualification of said officers.

To County Superintendents and District Clerks:

This report is required by sec. 83, page 35, School Laws 1899. In order to secure correct reports to the State Department, as required of County Superintendents in sec. 19, page 13, School Laws 1899, the State Superintendent makes the following suggestions and requests:

1. That the District Clerk require, at the close of every term, a full and correct report, on Form No. 13, of all the facts therein called for. (See sec. 104, page 42, School Laws 1899.)

2. That the District Clerk draw all orders, both on the District Treasurer, for definite sums, keeping stubs showing date, amount, drawee and purpose of such orders. By this means there must be absolute accuracy in the financial exhibit required in this report.

3. That the County Superintendent, as required in sec. 23, page 15, School Laws 1899, notify each District Clerk of his willingness to assist in completing this report, if necessary; and that then the Superintendent decline to receive any partial report, until fully satisfied by the District Clerk that such report cannot be completed. See note at the head of this blank, regarding the apportionment of school moneys.

4. The annual report of the County Superintendent being based largely on the reports of District Clerks, it is hoped to secure correct and prompt returns from the last-named officers, with a view to making a reliable exhibit of the school work of the State.

5. I desire to call special attention to Nos. 1, 2, 4, and 5, on page 2, and urge that County Superintendents obtain complete answers to those numbers from clerks of cities of the first and second class.

Very respectfully,

Frank Nelson, State Superintendent.

(On back:) Annual Report of ..... School District No. 53. For the Year ending June 30, 1900. C. J. Post, District Clerk. This report should be made out, read to the district meeting, and immediately forwarded to the County Superintendent. "Whenever a school district shall lie partly in two or more counties, the clerk of such district, in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the County Superintendent of Public Instruction of each of the counties in which such district may be partly situated." (Sec. 8, page 62, School Laws of 1897.) N. B.—The clerk of each district is required by law to transmit a report in writing of such "facts and statistics in regard to the district school as the County Superintendent may require." (Sec. 34, page 71, School Laws of 1897, last clause.) Filed this ..... day of ....., 1900. ....., County Superintendent. W. Y. Morgan, State Printer. C. J. Post.

Government's Exhibit 36.

Eq. 2131.—(2 sheets).—2-10-16.

State of Kansas, Leavenworth County, ss. In the Probate Court of said county and state.

Henry Carter who now here makes application for marriage license addressed to any person authorized by law to join in marriage himself the said Henry Carter aged 28 years, and Ara Simpson aged 32 years, being by me first duly sworn doth say that they are of lawful age.

And they the said Henry Carter and Ara Simpson are not related to each other in the degrees prohibited by law, to-wit: Parent and child, grand parent and grand child of any degree, brother and sister of either half or the whole blood, uncle and niece, aunt and nephew, nor first cousins; that they, or either of them, are not now and never have been epileptic, imbecile, feeble minded, or afflicted with insanity; also, that neither of the parents of the said Henry Carter and Ara Simpson was epileptic, imbecile, feeble minded nor afflicted with insanity at the time of and prior to his or her birth; and that there exists no legal impediment to said marriage No. 14843.

Henry Carter.

In testimony whereof I, the undersigned Judge of the Probate Court in and for Leavenworth County and ex officio clerk thereof have hereunto subscribed my name and affixed

the seal of said court, at my office this 22nd day of June, A. D. 1908.

(Seal) Thomas L. Johnson, Probate Judge.

Saml Dodsworth Book Co., Legal Blank Publishers, Leavenworth, Kan. No. 10086.

Certificate of copy.

State of Kansas, Leavenworth County, ss. Probate Court.

I, Thomas L. Johnson, sole Judge and ex-officio Clerk of the Probate Court, within and for the County aforesaid, do hereby certify the foregoing to be a true copy of application for marriage license made by Henry Carter to marry Ara Simpson as the same appears from the records of said Court.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court at Leavenworth this 10th day of February, A. D. 1916.

(Seal) Thomas L. Johnson,

Probate Judge and Ex-officio Clerk.

(Revenue stamps—10c)

Government's Exhibit 37.

Eq. 2131.—2-10-16.

MARRIAGE LICENSE.

State of Kansas, Leavenworth County.—No. 14843.

June 22nd, A. D. 1908.

To Any Person Authorized to Perform the Marriage Ceremony, Greeting:

You are hereby authorized to join in marriage Henry Carter of Leavenworth County, Kansas, aged 28 years, and Ara Simpson of Leavenworth County, Kansas, aged 32 years.

And of this License you will make due return to my office within thirty days thereafter.

In testimony whereof, I, the undersigned Judge of the Probate Court of Leavenworth County, and ex-officio Clerk thereof, have hereunto subscribed my name and affixed the seal of said court, at my office, this 22nd day of June, A. D. 1908.

(L.S.) Thomas L. Johnson, Probate Judge.

State of Kansas, Leavenworth County, ss.

I, the undersigned do hereby certify that, by virtue of

the within License, I did, on the 22nd day of June, A. D. 1908, join in marriage the parties therein named.

John A. Gregg, Bethel A. M. E. Church.

Returned and filed June 23, A. D. 1908.

Thomas L. Johnson, Probate Judge.

State of Kansas, Leavenworth County.

I, the undersigned, Judge and ex-officio Clerk of the Probate Court of said County, do certify that the above and foregoing Marriage License and Certificate of Marriage of the parties therein named is a full, true and perfect transcript of and from the record of Marriage Licenses and Marriages of said County, of the matter therein specified, as fully as the same appears of record, and that I am the lawful Custodian of said record.

Witness my hand and the seal of said Court, hereto affixed at my office, this 10th day of Feby., A. D. 1916.

(Seal) Thomas L. Johnson,

Probate Judge and Ex-officio Clerk, as aforesaid.

(10c revenue stamp)

(Endorsed on back:) No. 14843 Marriage License Henry Carter to Ara Simpson Filed June 23rd, A. D. 1908 Thomas L. Johnson, Probate Judge. Saml Dodsworth Book Co., Leavenworth, Kansas. No. 6324

Government's Exhibit 38.

(3 sheets).—Eq. 2131.—2-10-16.

WILL.

"This is the last will and testament of me, Henry Carter, of the County of Leavenworth and State of Kansas, made this thirteenth day of August, A. D. 1895.

First. I give and bequeath unto my son, Thomas Carter, and my daughter, Susan Carter, in equal shares, the following Real Estate, viz: The West half of the West Half of the Southwest quarter of Section 27, Township 9, Range 20, in Leavenworth County, Kansas, containing Forty (40) acres.

Second. I give and bequeath unto my daughter Adas Wright and my daughter Maria Yokum in equal shares the following described Real Estate, viz: The East Half of the West Half of the Southwest quarter of Section 27, Township 9, Range 20 in Leavenworth County, Kansas, containing Forty (40) acres

Third. I give and bequeath unto my grandson H. Carter for his sole use the following described Real Estate, viz: The West Twenty (20) acres of the Southwest quarter of the Northwest quarter of Section 27, Township 9 Range 20 in Leavenworth County, Kansas.

Fourth. I give and bequeath unto my son Shannon Carter the following described Real Estate, viz: The East Twenty (20) acres of the Southwest quarter of the Northwest quarter of Section 27, Township 9 Range 20 in Leavenworth County, Kansas.

Fifth. I hereby give, and bequeath the following that is to say:

To my daughter Babe Simington the sum of Two Hundred Dollars.

To my granddaughter Viola Carter the sum of One Hundred Dollars, an organ and a new feather bed.

To my son Johnson Carter the sum of Ten Dollars.

To my grandson, Henry Everett, the sum of Five Dollars.

To my grandson H. Carter, one feather bed.

And I hereby direct that all the sums of money bequeathed as aforesaid shall be paid out of the proceeds of my personal property, my executor hereinafter named having first paid all my just debts.

And I further direct that in case there shall not be sufficient left after paying all my just debts to satisfy the above sums of money as bequeathed aforesaid, then and in that case the same shall be paid and satisfied out of the Real Estate hereinbefore bequeathed to Adas Wright and Maria Yokum, Forty Acres, and the real estate hereinbefore bequeathed to my son Shannon Carter, Twenty Acres, in equal shares and proportions.

I hereby nominate and appoint as executor of this my last will and testament, Charles H. Steeper of McLouth, Kansas.

And lastly, I hereby revoke any and all wills by me at any time heretofore made.

In Witness Whereof I, Henry Carter, the testator, have to this my last will and testament set my hand and seal the day and year first above written.

Henry his X mark Carter (L.S.)

Signed, sealed, published and declared by the said Henry Carter as and for his last will and testament in the presence of us who in his presence and at his request and in the presence of each other have subscribed our names hereto as witnesses thereof.

T. J. Minney, McLouth, Kan.

Daniel W. Blair, McLouth, Kansas."

"PROOF OF WILL.

State of Kansas, Leavenworth County, ss. In the Probate Court of Said County.

T. J. Minney and Daniel W. Blair, of lawful age, being by me duly sworn, upon their respective oaths, in open Court, depose and say, that they were present at the execution of the last Will and Testament of Henry Carter, now deceased, that they saw him sign the same as testator, and that they signed the same as witnesses at his request and in his presence and in the presence of each other. That at the time of executing the same the said Henry Carter was of lawful age, and of sound mind and memory, and not under any restraint; that the testator well knew the contents of said Last Will at the time of signing the same.

(Seal) T. J. Minney,

Daniel W. Blair.

Sworn and subscribed to before me, this 2 day of April, 1902. Laurens Hawn, Probate Judge.

Filed and admitted to Probate the 2 day of April, A. D. 1902. Laurens Hawn, Probate Judge.

Recorded this 2nd day of April, A. D. 1902. Laurens Hawn, Probate Judge."

—1128—

Saml Dodsworth Book Co., Legal Blank Publishers, Leavenworth, Kan. 3-50-5.

Certificate of copy, Form 1.

State of Kansas, Leavenworth County, ss. Probate Court.

I, Thomas L. Johnson, sole Judge and ex-officio Clerk of the Probate Court, within and for the County aforesaid, do hereby certify the foregoing to be a true copy of the last will and testament of Henry Carter, deceased, as the same appears from the records of said court.

In Testimony Whereof, I have hereunto set my hand and

affixed the seal of the said Court at Leavenworth this 10th day of February, A. D. 1916.

(Seal)

Thomas L. Johnson,
Probate Judge and Ex-Officio Clerk.

State of Kansas, Leavenworth County, ss.

I, Thomas L. Johnson, sole Judge of the Probate Court, within and for said County, the same being a Court of Law and Record, hereby certify that the signature attached to the above certificate, purporting to be that of Thomas L. Johnson is his genuine signature, and that he was at the time thereof ex-officio Clerk of said Probate Court, and as such full faith and credit are due his acts, and that the attestation of said Clerk is in due form of law and by the proper officer.

Witness my hand and the seal of said Court, at Leavenworth, this 10th day of February, 1916.

(Seal)

(10c revenue stamp)

Thomas L. Johnson,
Probate Judge.

Government's Exhibit 39.

Eq. 2131.—2-14-16.

Gov. Ex. 13.—2131.—2-24.

WARRANTY DEED—Form 801.

This Deed, Made this ..... day of ..... in the year of our Lord one thousand nine hundred and ....., between Thomas Atkins C7913 of the County of ..... and State of Colorado, of the first part, and H. U. Bartlett of the County of Creek and State of Okla., of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of Four Thousand ($4000.00) no/100 Dollars to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, his heirs and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Creek, and State of Okla., to-wit:

W2 of NE4 of Sec. 5 and SW4 of NW4 of Sec. 4, Twp. 18 N., Rge 7 E.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and

the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and To Hold The said premises above bargained and described, with the appurtenances, unto the said party of the second part, his heirs and assigns forever. And the said Thomas Atkins C7913 party of the first part, for his heirs, executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that at the time of the ensealing and delivery of these presents he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance in law, in fee simple, and has good right, full power and absolute authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants bargins, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever; (except as hereinafter specified) ..... and the above bargained premises in the quiet and peaceable possession of the said party of the second part, ... heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will warrant and forever defend.

In Witness Whereof, The said party of the first part has hereunto set his hand and seal the day and year ..... above written.

..... (Seal)
..... (Seal)
..... (Seal)
..... (Seal)

Signed, sealed and delivered in presence of

.....
.....
.....

State of Colorado, County of ....., ss.

I, ... a Notary Public in and for the said County, in the State aforesaid, do hereby certify that .... personally known to me as the person whose name..... subscribed to the annexed Deed, appeared before me this day in person, and acknowledged that ..... signed, sealed and delivered the said instrument of writing

as.....free and voluntary act for the uses and purposes therein set forth.....
.....

Given under my hand and ..... seal, this ..... day of ....., A. D. 191...

My commission expires.....
....., Notary Public.

(On back:) Date ..... 191.. Lot ..... Block ..... Warranty Deed ..... to ..... State of Colorado, County of Pueblo, ss. I hereby certify that this Deed was filed for record at ..... o'clock ..... M., ... 191.. in my office and duly recorded in Book ..... Page ...., Recorder. By ....., Deputy. Fee, $..... The Franklin Press, Pueblo 1517

Government's Exhibit 40.

Eq. 2131.—2-14-16.

Gov. Ex. 12.—2131 Eq.—2-24-15.

I B of C—State, County, City Depository.

INTERNATIONAL BANK OF COMMERCE

42-5

Pueblo, Colorado, Jun 26 1914 No. 21068

Pay to the order of Thos. Atkins.....$100.00
One Hundred & no/100.....Dollars
Not over one hundred 100.

J. T. Greene, Cashier.

To The Interstate Trust Co.,
23-57 Denver, Colo.

Kennedy Ptg. Co., Fredonia, Kan.

Government's Exhibit 41.

Eq. 2131.—2-14-16.

Gov. Ex. 11.—2131 Eq.—2-24-15.

[This exhibit is an empty envelope, letterhead size—opened at end.]

H. U. Bartlett
Sapulpa
Okla.
Box 216

(2c stamp—canceled)

(Stamped:) Pueblo, Colo. Jun 26 [illegible] A. M. 1911

Mrs. Sadie James
Leavenworth
201 Cherokee St. Kansas.

Government's Exhibit 42.

Eq. 2131.—2-14-16.

[Sealed envelope endorsed on back, "Gov. Ex. 42.—Eq. 2131.—2-14-16. Gov. Ex. 15.—Eq. 2131.—2-26-15." On front of which appears the following:]

No. 362

The Within check, signed by Gem Oil Company, in sum of $1,000.00, payable to Sadie James, to be delivered by undersigned to Sadie James when witnesses furnished by her have testified in land suit wherein Minnie Folk, nee Atkins, is seeking possession of allotment in Creek Nation of Oklahoma of her son Thomas Atkins, and when Minnie Folk has gained possession of said land, and when oil and gas lease held by Chas. Page and R. A. Josey has *bee* been declared valid, and when Page and Josey are in legal possession of said land; and not until said lease has been declared valid.

In addition to payment of sum *ment-* Chas. Page and R. A. Josey are to pay all expenses and fees of witnesses, to be produced by Sadie James, said expenses not to exceed sum of $500.00.

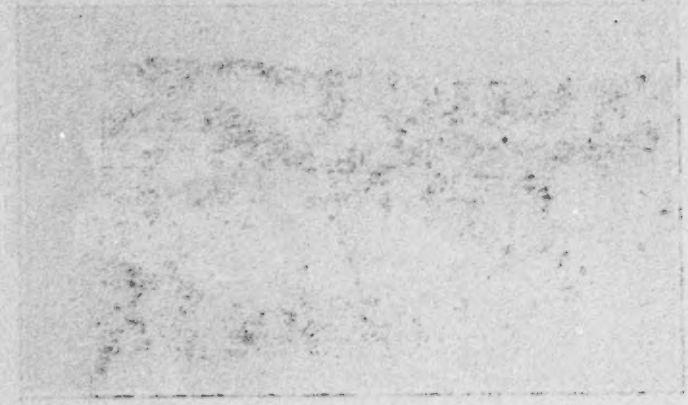
In event that Chas. Page and R. A. Josey are not declared legal owners of oil and gas lease covering land of Thomas Atkins, then the inclosed check is to be returned to them.

The First National Bank, of Tulsa,
By A. E. Bradshaw.

The above stipulation is this 20th of August, 1914, agreed to. Sadie James.

Nov 10-1914

Received from Gem Oil Company the sum of Two hundred fifty Dollars to apply on the within check. Sadie James.



Government's Exhibit 43.

Eq. 2131.—2-19-16.

Dennis Jones, Lawyer. Leavenworth, Kansas.

Leavenworth Kansas, November 26th, 1913.

Codding and Codding, Lawyers,

Leavenworth Kansas.

Gentlemen:

I have known this woman for many years, dating back to her girlhood days, during which period I have not at any time heard of any wrong act or deed on her part, her maiden name was Sadie Harris, and until her marriage to Charles Lane, her name was Sadie Johnson, and as far as I know she is a worthy woman.

Respectfully,

Dennis Jones.

Government's Exhibit 44.

Eq. 2131.—2-22-16.

[See insert herewith for reproduction of photographic group of pupils at Carlisle School.]

Government's Exhibit 45.

Eq. 2131.—2-22-16.

[See insert herewith for reproduction of small photograph. Endorsed on back: "J. N. Choate, Photographer for Indian Training School, Carlisle Barracks, Pa."]

Government's Exhibit 46.

Eq. 2131.—2-24-16.

Worked for Egendorff Dec 1-1879
Aged 15 years
Worked for Egend. to Oct 1880 then for Lange until 1883 then went to college where I graduated Mch 13-1885
April of 1885 I worked a short while for Egend. then back to Lange until Dec 11-1886 went in business for myself
Molly Peters fortune teller
Page owner of wells
Mr. Lane
Judge Stewart
Ella Abbott — 3 Cher. 138 Del.

Indian Minnie
Minnie Atkins
Tommy Atkins
Mrs Lesher Granny
Jim Mayo
alive

Government's Exhibit 47.

Eq. 2131.—2-29-16.

$300.00 Leavenworth, Nov. 27, 1885

GERMAN BANK

of Leavenworth, Kansas.

Pay to Alonzo F. Callahan———or order
Three Hundred———————Dollars
No. 1027 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID Nov 28 1885 Leavenworth, Kas.

(Endorsed on back:) A. F. Callahan.

Government's Exhibit 48.

Eq. 2131.—2-29-16.

$225.00 Leavenworth, Oct. 29, 1885

GERMAN BANK

of Leavenworth, Kansas.

Pay to Henry Rammelt————or order
Two hundred and twenty-five Dollars
No. 1007 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID Oct 29 1885 Leavenworth, Kas.

(Endorsed on back:) Hy. Rammelt.

Government's Exhibit 49.

Eq. 2131.—2-29-16.

$151.00 Leavenworth, Oct 27 1885

GERMAN BANK

of Leavenworth, Kansas.

Pay to J. C. McHale————————or order
One hundred and fifty-one——Dollars
No. 1005 C. T. W. Dapley
Saml Dodsworth Bank Co. Leavenworth

(Stamped on face of check:) German Bank, PAID
Oct 27 1885 Leavenworth, Kas.

(Endorsed on back:) J. C. McHale

Government's Exhibit 50.

Eq. 2131.—2-29-16.

Register's Form.

THIS DEED, Made this eighteenth day of November in the year of our Lord One Thousand Eight Hundred and Eighty-five Between Emma Kauffer formerly Emma Ferrell and Walter W. Kauffer her husband of Kansas City, Mo., parties of the first part, and Frederick Werner, party of the second part.

Witnesseth, That the said parties of the first part, for and in consideration of the sum of Twenty-five Dollars, to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, do by these presents Remise, Release and Quit Claim unto the said party of the second part and to his heirs and assigns forever, all their right, title, interest, claim and demand in and to the following described tract, piece and parcel of land situate, lying, and being in the City and County of Leavenworth and State of Kansas namely:

Lots numbered twenty three and twenty four in Block numbered twenty four Leavenworth City (City Proper) "on final town"

together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining:

To Have and to Hold the Same, To the said party of the second part, and to his heirs and assigns, to the sole and proper use, benefit and behoof of the said party of the second part, his heirs and assigns, forever.

In Witness Whereof, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Walter W. Kauffer (Seal)
Emma Kauffer (Seal)

State of Missouri, Jackson County, ss.

Be It Remembered, That on this 19th day of November, A. D. Eighteen Hundred and Eighty five, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Emma Kauffer, and Walter W. Kauffer her husband, who are personally known to me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, the day and year last above written.

My Commission expires the 30th day of March, A. D. 1887.

(Seal) Jos. L. Norman, Notary Public.

State of Kansas, Leavenworth County, ss.

I, the County Clerk of the County of Leavenworth, in the State of Kansas, hereby certify that I have properly entered the transfer made by the within deed on the Transfer Record in my office, as such Clerk, on page 79 of Book B thereof, this 20th day of November, A. D. 1885.

(Seal) J. W. Niehaus, County Clerk.

(Endorsed on back:) Quit Claim Deed from Emma Kauffer et al. to Frederick Werner State of Kansas, Leavenworth County, ss. This Instrument was filed for Record in the office of the Register of Deeds, in and for said County, on the 20th day of November, A. D. 1885, at 11 3/4 o'clock A. M. and duly recorded in Book .... of Conveyances at Page .... Fee, $.... C. W. Curtan, Register of Deeds. (Notation, in pencil:) Mail to Frederick Werner Esq., Care A. P. Scheverman, Kansas City, Mo. Dassler

---

Government's Exhibit 51.

Eq. 2131.—2-29-16.

THIS DEED, Made this twenty-fourth day of November in the year of our Lord One Thousand Eight Hundred and Eighty-five Between Frederick Werner, a single man, party of the first part, and Charles F. W. Dassler and Laban Gardner Hopkins, parties of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of Twenty-five Dollars to him in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, doth by these presents Remise, Release and Quit Claim unto the said parties of the second part, and to their heirs and assigns forever, all his right, title, interest, claim and demand in and to the

following described tracts, pieces and parcels of land situate, lying and *one* being in the City and County of Leavenworth and State of Kansas namely:

Lots numbered Twenty-three and Twenty-four in Block numbered Twenty-four, Leavenworth City (City Proper) "original town"

together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining:

To Have and to Hold the same, To the said parties of the second part, and to their heirs and assigns, to the sole and proper use, benefit and behoof of the said parties of the second part, their heirs and assigns, forever.

In Witness Whereof, The said party of the first part hath hereunto set his hand and seal the day and year first above written.

Frederick Werner (Seal)

Sealed and Delivered in the presence of

N.B. Interlineation on line marked "one" made and noted before execution. Herbert Nicklewicz.

(Pencil notation:) Let notary as *envscv* [illegible]

State of New York, Greene County, ss.

Be It Remembered, That on this 30th day of November, A. D. Eighteen Hundred and Eighty-five, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Frederick Werner, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my official Seal, the day and year last above written.

(Seal) Herbert Nicklewicz, Notary Public.

My Commission expires the 30th day of March, A. D. 1887.

(Pencil notations:) fill in No. Clerk's certificate to notary's [eracier]

State of Kansas, Leavenworth, County, ss.

I, the County Clerk, of the County of Leavenworth in the State of Kansas, hereby certify that I have properly entered the transfer made by the within deed on the Transfer Record in my office, as such Clerk, on page 85 of Book B thereof, this 3d day of Dec., A. D. 1885.

J. W. Niehaus, County Clerk.

(Seal) By J. A. McAuliffe, Deputy.

(Endorsed on back:) Quit Claim Deed from Frederick Werner to Charles F. W. Dassler and Laban Gardner Hopkins. State of Kansas, Leavenworth County, ss. This instrument was filed for Record in the office of the Register of Deeds, in and for said County, on the 3rd day of December, A. D. 1885, at 11 3/4 o'clock A. M., and duly recorded in Book 96 of Conveyances, at Page 324. Fee, $.... C. W. Curtan, Register of Deeds. L. G. Hopkins, Attorney at Law and Examiner of Land Titles, No. 305 Delaware Street, Leavenworth, Kan. (Pencil notation:) Col $1.25 C. F. W. D. Comp.

Government's Exhibit 52.

Eq. 2131.—3-1-16.

Telsa, Okla., 1-22-14.

My Dearest Mother

I am verry sorry I did not answer your letter sooner but I was in douts as to what I was goint to do. Mama I lost Lucy add. please send it to me I Have bought a Cafay and I am doing verry nice at presand I cant say just How weel I like this Place just yet. How is Janes and family and Eva. Chase if nothing Happons I shall be up Home some time next month for a few days they are all very nice to me down Hear especialy my chums girl mirtice she dont allow me to go with any one but you now I dont care well I will close as I am verry Bissie at Presend

from yours

Respt. Sam

Address Nashes Cafey 126 North Greenwood Ave.

Government's Exhibit 53.

Eq. 2131.—3-1-16.

[An envelope:]

(2c stamp—canceled)

(Stamped:) Kans. City & Tulsa IR204 Jan 22 1915 R. P. O.

After 5 days, return to 126 North Greenwood St., Sam Nash Caff, Tulsa Okla.

Mrs. Marrie Nash

Leavenworth Kansas

No. 1223 Kickapoo St.

Government's Exhibit 54.
Eq. 2131.—4-5-16.

[Three checks.]

No. 642 Leavenworth, Kans., July 14, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone————or order
Two Hundred————Dollars.
$200.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID Jul 14 1885 Leavenworth, Kans.

(Endorsed on back:) John J. Malone.

No. 604 Leavenworth, Kans., May 28, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone————or order
Three Hundred————Dollars.
$300.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID May 28 1885 Leavenworth, Kas.

(Endorsed on back:) John J. Malone.

No. 664
Leavenworth, Kans., August 18, 1885

INSLEY, SHIRE & CO. BANKERS

Pay to John J. Malone————or order
Five Hundred————Dollars
$500.00 John Rohr
Buxton & Skinner Lith St. Louis.

(Stamped on face of check:) Insley, Shire & Co., PAID Aug 18 1885 Leavenworth, Kas.

(Endorsed on back:) John J. Malone.

(Stamped on back:) Leavenworth PAID Aug 18 1885 National Bank.

Government's Exhibit 55.

Eq. 2131.—4-8-16.

MARRIAGE LICENSE.

State of Missouri, County of Buchanan.

This license authorizes any Judge, Justice of the Peace, licensed or ordained preacher of the Gospel, or any other person authorized under the Laws of this State, to solemnize Marriage between Edward L. Bell of Wathena County of Doniphan and State of Kas, who is over the age of twenty one years and Miss Nettie Mabray of St. Joseph County of Buchanan and State of Mo. who is over the age of eighteen years.

Witness, my hand as Recorder with the Seal of Office hereto affixed at my Office in St. Joseph, Missouri, the 31st day of Jany., 1889. (Seal)
By Dan'l T. Lysaght, Deputy. Thomas N. Finch, Recorder.

Note, If the man is under twenty-one or the woman under eighteen, add the following: The Father giving his name (or Mother or Guardian as the case may be) of the said A. B. or C. D. as the case may require, has given his or her assent to the said Marriage.

State of Missouri, County of Buchanan, ss.

This is to Certify that the undersigned a Minister of the Gospel did at St. Joseph in said County on the 31st day of January, A. D. 1889, unite in Marriage the above named persons.

Rev. S. S. Smith.

Filed for record this 31st day of January, 1889. Thomas N. Finch, Recorder.

State of Missouri, County of Buchanan, ss.

I, Harry C. Yates, Recorder of Deeds within and for the County and State aforesaid, do hereby certify that the above and foregoing instrument of writing is a true and correct copy of the Record, of marriage of Edward S. Bell and Nettie Mabray as recorded in book H at page 220 of the Records of Buchanan County.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in St. Joseph, Mo., this 28th day of March, 1916.

Harry C. Yates, Recorder of Deeds.
(Seal) By C. O. Corneleus, D. R.
(10c revenue stamp)

Government's Exhibit 56.

Eq. 2131.—5-22-16.

Form 3955.

——— 1:45 p m [partly illegible]

Request to Call for Special-Delivery Letter.

UNITED STATES POST OFFICE.

(Date) 5-15-16

To Joe A. Malone

Please call at P. O. presenting this notice, for a special-delivery letter that could not be delivered for the following reason: not in.

If not called for before the carrier begins his next regular delivery, the letter will be delivered by carrier, as addrssed, at 952 So. E St.

No. of Letter 2835 R. Hitchcock, Postmaster.

(This notice should be left at the addressee's residence or place of business, put in his post-office box, or otherwise delivered to him as quickly as possible.) c5—3550

Government's Exhibit 57.

Eq. 2131.—5-22-16.

Leav Kans

Joe A. Malone

Tacoma Wash

Dear Joe

Pardon my writing you, but I ask you for old friendship sake to give no Deposition or to talk to this Oil Co until I talk to you for there might be things come out that neither of us would want the Public to no Can I see you if I ship in there for a couple of hours and out I will not put you in bad in any way a few words with you is all I want wire me and I will leave at once one of our Lawyers a a former Captain Hanford called on you he arrived in 11 worth a couple days ago and the other out fit is a Negro Oil Co fighting, fighting us awaiting an early reply with ever best wishes yours

Ella Witt Dugan

Government's Exhibit 58.

Eq. 2131.—5-22-16.

[Envelope.]

(Special delivery stamp)

[Two canceling stamps, illegible.]

(Stamped:) Leavenworth May 12 3:30 PM Kans
2835 1916

Joe A Malone
Tacoma Wash

find this man
952 So E

(Stamped on back:) Tacoma May 15 1:30 PM Wash
(Canceling stamp:) 1—1916

Government's Exhibit 59.

Eq. 2131.—5-23-16.

Leavenworth Kan July 5th, 1885.

To the Honorable Mayor and City Council,

We the undersigned citizens and tax payers of Leavenworth do pray to your honorable body to have the two houses of illfame known and kept by Lillie White 217 Seneca St. and Stella Forest 303 Seneca street removed from said street on the ground that it is a nuisance of the worst kind no women or child can pass that said street between 2nd and 3rd after dark without being insulted by roughs hanging around said places. It also does damage to property as no respectable people want to live around such places and especially when they have boys and girls growing up to be men and women. It is also impossible for people to sleep nights from there hollowing and stamping noise going on in such places so that if we want to keep tenants in our houses we got to reduce the rent down to allmost nothing.

We therefore pray to your honorable body to remove these said places from said Seneca St. to a place where the ordinace calls for.

Hoping to receive your immediate attention we are yours respectfully Citizens and Tax payers of Leavenworth.

(See other side.)

Name	Block	Lots
Phillip Feth	24	21 & 22
All. A. Jordan	25	13 & 14
Geo P Scott	24	
John Maduska	24	
Peter Wilkins		
Wm Gordan	Block 24	Lots 6 & 7
T Johnson		
G. H. Sudolph	Block 24	Lot 14

Name	Block	Lots
M. Roche—lots 31 & 32	block 43.	
E. Sharon.		
T. Rivard		
John Ripineroger	block 24	Lots 5
A. H. Van Duzee	"	
F. C. Peck	"	
Mrs. H. D. Higgins	"	
Thomas McNally	Block 17	Lots 16 17
B. Cranston	do 1	do 24
J. Mettier		
John Ulrich		
Otto Ristenpart		
John Seckler		

(On back:) pet. to city mayor with asst to abate nuisance

Government's Exhibit 60.

Eq. 2131.—5-23-16.

Leavenworth, Kan. July 5th, 1885.

To the Honorable Mayor and City Council,

We, the undersigned citizens and taxpayers of Leavenworth, do pray to your honorable body to have the two houses of illfame known and kept by Lillie White, 217 Seneca St. and Stella Forest 303 Seneca Street, removed from said street on the ground that it is a nuisance of the worst kind. No woman or child can pass that said street between 2nd and 3rd after dark without being insulted by roughs hanging around said places. It also does damage to property as no respectable people want to live around such places and especially when they have boys and girls growing up to be men and women. It is also impossible for people to sleep nights from their hollowing and stamping noise going on in such places, so that if we want to keep tenants in our houses we got to reduce the rent down to almost nothing.

We therefore pray to your honorable body to remove these said places from said Seneca st, to a place where the ordinance calls for.

Hoping to receive your immediate attention, we are

Yours respectfully, citizens and taxpayers of Leavenworth.

(Name).	Block	Lots
Phillip Feth	24	21 & 22
M. A. Jordan	25	13 & 14

(Name)	Block	Lots
Geo. P. Scott	24	
John Maduska	24	
Peter Wilkens		
Wm. Gordon	Block 24 lots 6 & 7	
T. Johnson		
G. H. Ludolph	Block 24 lot 14	
M. Roche	lots 31 & 32 block 43	
E. Sharon		
T. Rivard		
John Ripineroger	Block 24 lots 5	
A. H. Van Duzee	"	
H. C. Peck	"	
Mrs. H. D. Higgins	"	
Thomas McNally	Block 17 lots 16, 17	
B. Cranston	do do 24	
J. Mettier		
John Ulrich		
Otto Ristenpart		
John Seckler		

The State of Kansas, City and County of Leavenworth, ss.

I, Fred Metschan, city clerk of the City of Leavenworth, Kansas, do hereby certify that the within and foregoing is a true, correct and perfect copy of a petition as the same appears on file in my office. Witness my hand and the seal of said city, this 23rd day of May, 1916.

(Seal)

Fred Metschan,
City Clerk, Leavenworth, Kansas.

Government's Exhibit 61.

Eq. 2131.—6-21-16.

Leavenworth, Kansas,
Wednesday, August 5, 1885.

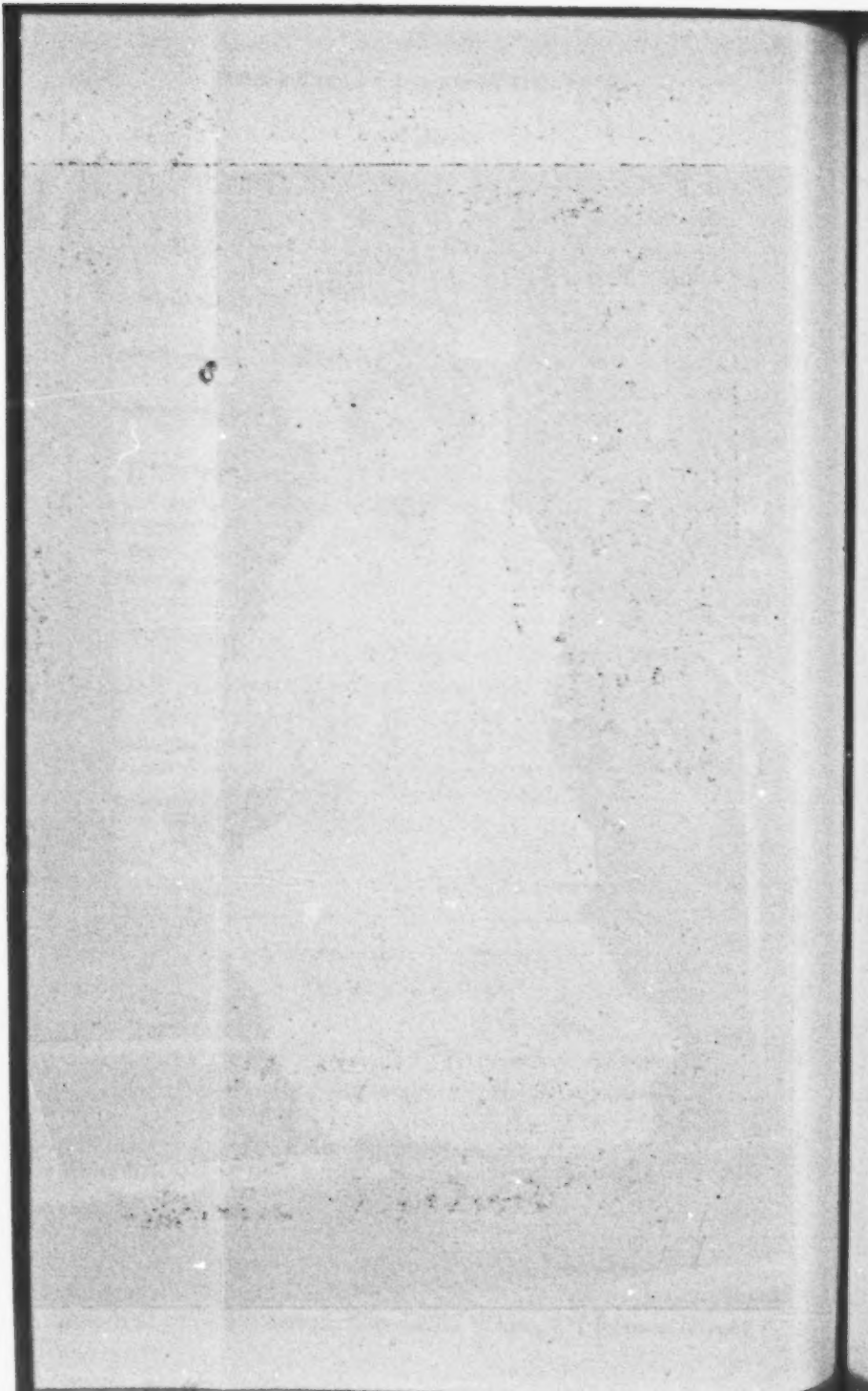
Council met in regular session with Mayor Neely in the Chair.

Roll Call: Present—Biringer, Bruns, Bond, Cook, Przybylowicz, Miller and Roche. Absent—Richards.

The Minutes of the last regular and adjourned meetings were read and approved.

Mr. Bond rose to a . . . . . .

The petition of Philip Feth and others to have the two houses of ill fame, occupied by Lillie White, 217 Seneca Street



and Stella Forrest 303 Seneca Street, removed and the nuisance caused thereby abated, was read and referred to City Marshall with instructions to abate the nuisance.

The appropriation ordinance for the month of July * * *

On motion counsel adjourned until Friday evening next at 7 o'clock sharp.

Wm. Shepherd, City Cler[1]

I, Fred Metschan, City Clerk of the City of Leavenworth, Kansas, hereby certify that the foregoing is a true and correct copy and abstract of part of the proceedings of the City Council of August 5, 1885, as it appears on record (M) of said City, in this office.

In testimony whereof I have hereby affixed my hand and the seal of the City of Leavenworth, Kansas, this 21st, day of June, 1916.

(Seal)

Fred Metschan,
City Clerk, Leavenworth, Kansas.

Defendants Folk and Hanford's Exhibit 1.

Eq. 2131.—1-3-16.

[See insert herewith for reproduction of photograph of Mrs. Minnie Folk.]

Defendant Folk's Exhibit 2.

Eq. 2131.—1-10-16.

3592 Front St.
San Diego, Calif.
Nov 10/14.

E. C. Hanford, Esq.,
Seattle, Wash.

Dear Sir:

In reply to your inquiry of recent date.

There was a Minnie (Atkins) who was employed by me at Ft. Leavenworth, for several months in 1885 to /86.

I do not now recall special incidents, by reference to your letter, that would aid you in your suit.

Yours truly,

Jno. Stafford.

Defendant Page's Exhibit 4.

(5 sheets).—Eq. 2131.—1-25-16.—2485.

May 3rd, 1915.

Mr. Fred S. Cook,
Special Agent, U. S. Indian Service,
Muskogee, Okla.

Dear Mr. Cook:

Replying to your letter of the 30th ultimo, this is to advise that our records contain the information that Minnie Atkins was placed in the home of Mr. Wm. Penrose at Neshaminy, Bucks County, Pennsylvania, on the 29th of October, 1883. She remained in that home until the 13th of June, 1884, and on July the 8th of 1884 she was sent to the home of a Mr. Hyde at Fort Leavenworth, Kansas. On the latter date she was discharged as a student of this school and our records go no further.

In this connection I will add that there have been frequent requests lately for information relative to the connection with this school of Minnie Atkins. As has heretofore been the custom such letters have been answered promptly and information on hand has been given. Copies of letters giving information in the case in which you are interested have been mailed to the Superintendent's office at Muskogee.

Hoping that I will be advised how I can be of further assistance, I am,

Very respectfully,

HKM. Supervisor in Charge.

[Following note written on separate sheet of paper:]

Oct. 29-1883—Minnie Atkins was placed with Wm Penrose, Neshaminy, Bucks Co., Pa. under the outing. She ret'd June 13, 1884. Rem'd at school until July 8, 1884—when she was sent to a Mr. Hyde, Fort Leavenworth, Kans. She was discharged at this time & our records go no further.

DEPARTMENT OF THE INTERIOR
United States Indian Service
Muskogee, Okla., Apr. 30, 1915.

Mr. Oscar E. Lipps,
Supt., Carlisle Indian School,
Carlisle, Pa.

Dear Mr. Lipps:

In the investigation of the alleged birth of a Creek citizen named Tommy Atkins, we are compelled to call on you for

some assistance. We are informed that in 1884, a Creek girl was attending school at Carlisle by the name of Minnie Atkins. On June 24, 1884, several Creek pupils with whom she attended school at Carlisle, returned to Oklahoma. Our information is that she, Minnie Atkins, Eliza Bell and Nancy McIntosh did not return with their class as of June 24, 1884; that Minnie Atkins was then and for sometime afterwards employed by a farmer at his home at a small town south of Carlisle. Our informant is not certain of the name of the town, but thinks it was Earlsboro, or some such name.

She informs us that Minnie Atkins stayed in the vicinity of Carlisle for several months after the others left. She also advises that she is positive that there is a record at the school as to whom Minnie Atkins was working for and what place, being what they called "farmed out;" that at regular intervals an employee of the school would make the rounds of the different neighborhoods where the pupils were farmed out and check them up as to whether they were receiving the right kind of treatment.

What I am interested in is I am trying to learn if your records will show if Minnie Atkins was working for someone in the country near Carlisle in 1884 and if so, whom and where and if the records will show the exact time she left such employment.

This may occasion you some trouble in looking up the right records, but it is very important to the Government, in a suit now pending in the United States court which comes up for hearing soon. Outside parties interested in this suit will probably try to ascertain the same information, but in my opinion, they should not be given the same unless authorized by the Commissioner or the Secretary, if you have any such record.

Will you kindly advise me at your earliest convenience relative to the above information?

With personal regards, I am,

Yours sincerely,

Fred S. Cook,
Special Agent.

FSC—L

Defendant's Exhibit 5.

Eq. 2131—2-17-16.

No. 1834 Tulsa, Oklahoma, Nov 10, 1914

EXCHANGE NATIONAL BANK.

Pay to the order of Sadie James, Tulsa, Okla.———$200.00
* *Two Hundred & no/100———Dollars

Checked: GEM OIL COMPANY,
191 By R. A. Josey

To apply on escrow contract of $1000.00———200.00

Acceptance by endorsement is receipt in full for all items listed hereon.

(Stamped on face of check:) Exchange National Bank Nov 10 1914 Teller No. 1 Tulsa, Oklahoma

(Perforated in check:) 86-3 11-9 14

(Endorsed on back:) Sadie James.

Defendant's Exhibit 5.

2131.—3-2-15.

[Pages of exhibit fastened together with ribbon and sealed with Oklahoma State Seal.]

State of Oklahoma, County of Muskogee—ss. In the County Court. In the Matter of the Guardianship of the Estate of Quentin Garrett, a minor, Charles W. Garrett, guardian.—Probate No. 2309 St.

ORDER CONFIRMING SALE OF OIL AND GAS MINING LEASE.

This cause coming on for final hearing before this Court on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court, on the return of the guardian Charles W. Garrett, and the report of his proceedings under the order of sale heretofore made, and it having been proven that in pursuance of the said order of sale as ordered by this Court, the said guardian sold at private sale to J. Garfield Buell an oil and gas mining lease on the land of his said ward, situated in Creek County, State of Oklahoma, to-wit:

Southwest Quarter of Northeast Quarter of Section Five (5); Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4); all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, Oklahoma,

and containing 120 acres, more or less, during the minority of said ward and as much longer thereafter as oil or gas is found in paying quantities, and it appearing to the Court that the said purchaser J. Garfield Buell has paid no cash bonus of $nothing per acre, or a total of $nothing and as further terms of a contract made by the parties hereto this date to the said Charles W. Garrett, as guardian, and it appearing that the said J. Garfield Buell is the highest and best bidder for said lease, and that said sale was made and conducted fairly and legally and in accordance with the order of this Court, and it further appearing that the said bid of J. Garfield Buell, to-wit: the sum of $——— per acre and a royalty of one eighth of all the oil produced and saved from the premises or its equivalent in money, and the sum of $200.00 per year for each gas well from which gas is marketed, is fair and adequate, and is not disproportionate to the value of said oil and gas lease, and that a greater sum cannot be obtained;

It is therefore ordered and adjudged by the Court that the said sale of the said oil and gas lease to the said J. Garfield Buell, be confirmed and approved, and it is ordered that the said guardian, Charles W. Garrett execute to the said purchaser J. Garfield Buell an oil and gas mining lease and make return to this Court for final action and approval.

Done in open court, this 20th day of November, 1914.

Thos. W. Leahy,
Judge of the County Court in and for Muskogee County.

Filed: Nov. 20, 1914, in County Court.

OIL AND GAS MINING LEASE BY GUARDIAN, UNDER ORDER OF COURT.

Know All Men by These Presents: That heretofore, on the 20th day of November, 1914, Charles W. Garrett as the guardian of the estate of Quentin Garrett a minor, filed in the County Court of Muskogee County, State of Oklahoma, his petition for leave to lease for oil and gas purposes, the land hereinafter described belonging to his said ward, and

Whereas, the said Court, did, on the 20th day of November, 1914, make an order of sale, directing the said guardian Charles W. Garrett to sell at private sale to the highest and best bidder, an oil and gas lease on the said land of his said ward, during the minority of his said ward, and as much longer thereafter as oil or gas is found in paying quantities, and

Whereas, the said guardian sold said oil and gas lease to J. Garfield Buell on the 20th day of November, 1914, as shown by his report of said sale to said Court, and

Whereas, the said County Court, did on the 20th day of November, 1914, make an order confirming and approving said sale, and ordering and directing the said guardian to execute a lease to the said purchaser, in words and figures, to-wit:

"This cause coming on for final hearing before this Court on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court on the return of the Guardian Charles W. Garrett, and the report of his proceedings under the order of sale heretofore made, and it having been proven that in pursuance of the said order of sale, as ordered by this Court, the said Guardian sold at private sale to J. Garfield Buell an oil and gas mining lease on the land of his said ward situated in Creek County, State of Oklahoma, to-wit:

Southwest Quarter of Northeast Quarter of Section Five (5). Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7), East,

and containing 120 acres, more or less, during the minority of said ward and as much longer thereafter as oil or gas is found in paying quantities, and it appearing to the Court that the said purchaser, J. Garfield Buell has paid a cash bonus of No dollars, per acre, or a total of nothing to the said Charles W. Garrett as Guardian, and it appearing that the said ..... is the highest and best bidder for said lease, and that said sale was made and conducted fairly and legally and in accordance with the order of this Court, and it further appearing that the said bid of ....., to-wit: the sum of $—— per acre and a royalty of one eighth of all the oil produced and saved from the premises or its equivalent in money, and the sum of $200.00 per year for each gas well from which gas is marketed, is fair and adequate, and is not disproportionate to the value of said oil and gas lease, and that a greater sum cannot be obtained;

"It is therefore ordered and adjudged by the Court that the said sale of the said oil and gas lease to the said ———— be confirmed and approved, and it is ordered that the said guardian, Charles W. Garrett execute to the said purchaser J. Garfield Buell an oil and gas mining

lease and make return to this Court for final action and approval.

"Done in open Court, this .... day of ....., 191..

.....,
Judge of the County Court in and for Muskogee County."

Therefore, This Agreement, Made and entered into in duplicate, the 20th day of November, A. D. 1914, by and between Charles W. Garrett as Guardian of the estate of Quentin Garrett a minor, of Muskogee County, Oklahoma, party of the first part, lessor, and J. Garfield Buell, party of the second part, lessee.

Witnesseth, That the said party of the first part, for and in consideration of the sum of One Dollar and other valuable consideration under terms of contract made by the parties hereto this date, to him in hand well and truly paid by the said party of the second part, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the party of the second part to be paid kept, and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let unto the said second party, his heirs, successors or assigns, for the sole and only purpose of mining and operating for oil and gas, and of laying pipe lines, and of building tanks, powers, stations and structures thereon to produce and take care of said products during the minority of said ward, and as much longer thereafter as oil or gas is found in paying quantities, all that certain tract of land situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

Southwest Quarter of Northeast Quarter of Section Five (5), Lot Two (2) of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, State of Oklahoma,

and containing 120 acres, more or less.

In consideration of the premises the said party of the second part covenants and agrees:

1st: To deliver to the credit of the first party, his heirs or assigns, free of cost, in the pipe line to which he may connect his wells, the equal one-eighth part of all oil produced and saved from the leased premises.

2nd. To pay to the first party Two Hundred Dollars, each year in advance for the gas from each well where gas only is found, while the same is being used off the premises, and the first party to have gas free of cost from any such well for———stoves and———inside lights in the principal dwelling house on said land during the same time by making his own connections with the well.

3rd. To pay to first party for gas produced from any oil well and used off the premises at the rate of Two Hundred Dollars, per year, for the time during which such gas shall be so used, said payments to be made each three months in advance.

The party of the second part agrees to complete a well on said premises within —— from the date hereof or pay at the rate of——Dollars, in advance for each additional——month such completion is delayed from the time above mentioned for the completion of such well until a well is completed.

The party of the second part shall not be bound by any change in the ownership of said land until duly notified of any change either by notice in writing duly signed by the parties to the instrument of conveyance, or by the receipt of the original instrument of conveyance or a duly certified copy thereof.

The party of the second part shall have the right to use, free of cost, gas, oil and water produced on said land for his operations therein except water from wells of first party. When requested by the first party, the second party shall bury——pipe lines below plow depth.

No well shall be drilled nearer than Two Hundred feet to the house or barn on said premises.

Second party shall pay for damages caused by him to growing crops on said land.

The party of the second part shall have the right at any time to remove all machinery and fixtures placed on said premises including the right to draw and remove casing.

All payments which may fall due under this lease may be made directly to the lessor or deposited to his credit in American National Bank or Guaranty State Bank, both of Muskogee, Oklahoma.

The party of the second part,——heirs, successors or assigns, shall have the right at any time, on the payment of ——Dollars, to the party of the first —— heirs or assigns, to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its terms shall cease and determine: provided, this surrender

clause and the option therein reserved to the lessee shall cease and become absolutely inoperative immediately and concurrently with the institution of any suit in any court of law or equity by the lessee to enforce this lease, or any of its terms, or to recover possession of the leased land, or any part thereof against or from the lessor, his heirs, executors, administrators or assigns, or any other person or persons.

All covenants and agreements herein set forth between the parties hereto shall extend to their heirs executors, administrators, successors or assigns.

Witness the following signatures the day and year first above written.

Quentin Garrett
By C. W. Garrett
Guardian of the Estate of
Quentin Garrett Minor,
J. Garfield Buell

The above and foregoing lease is this 20th day of Nov. 1914, by the Court examined and approved concurrently with the order of confirmation thereof.

Court copy.

Judge of the County Court of
Muskogee County, Oklahoma.

State of Oklahoma, County of Muskogee, ss.

On this 20th day of November, 1914, before me, the undersigned a Notary Public, within and for the County and State aforesaid, personally appeared C. W. Garrett Guardian of the estate of Quentin Garrett to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal.

(Seal) Minta Harvey, Notary Public.

My Commission expires Feb. 2, 1917.

Filed: Nov. 20, 1914, in County Court.

State of Oklahoma, County of Muskogee, ss. In the County Court. In the Matter of the Guardianship of the Estate of Quentin Garrett, a Minor, Charles W. Garrett, Guardian.—Probate No. 2309 St.

ORDER CONFIRMING OIL AND GAS MINING LEASE.

Now on this 20th day of November, 1914, the same being a regular day of the October, 1914, term of said Court this cause came on for hearing on the return and report of Charles W. Garrett, Guardian of Quentin Garrett, a minor, showing that on the 20th day of November, 1914, he executed an oil and gas mining lease on the lands of his said ward, situate in the County of Creek, State of Oklahoma, described as follows, to-wit:

> Southwest Quarter of Northeast Quarter of Section Five (5); Lot Two of Section Five (5); Southwest Quarter of Northwest Quarter of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East, Situated in Creek County, Oklahoma, and containing 120

acres, more or less, during the minority of said ward, and as much longer thereafter as oil or gas is found in paying quantities, in accordance with the prior order of this Court confirming the sale of said lease.

And the said oil and gas mining lease, presented for approval and shown by the report of said guardian, having been fully examined by this Court, the same is hereby approved, and the said guardian is hereby ordered and directed to deliver the same to J. Garfield Buell, as in said order of confirmation of sale provided.

Dated this 20th day of November, 1914.

Thos. W. Leahy,
Judge of the County Court of Muskogee County.

Filed: Nov. 20, 1914, in County Court.

CLERK'S CERTIFICATE.

State of Oklahoma, County of Muskogee, ss.

I, C. H. Shaffer, Court Clerk within and for the County and State aforesaid, hereby certify that the above and foregoing is a full, true and complete transcript of the Order confirming sale of Oil and Gas Mining Lease; Oil and Gas Mining Lease by Guardian, under order of Court, as per copy on file; Order confirming Oil and Gas Mining Lease, as the same remains of record and on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the County Court at my office in Muskogee, Oklahoma, this 2nd day of March, A. D. 1915.

(Seal) C. H. Shaffer, Court Clerk.

(Revenue stamps—10c)

JUDGE'S CERTIFICATE.

State of Oklahoma, County of Muskogee, ss.

I, ..., Judge of the ..... Court of Muskogee County, State of Oklahoma, do hereby certify that the above named C. H. Shaffer by whom the foregoing attestation was made, was at the time of so making the same, and is now, Clerk of said Court, to all whose acts as such, full faith and credit should be given as well in Courts of this jurisdiction as elsewhere; that the seal thereto annexed is the seal of said ..... Court, which said attestation so made by him is in due form of law, and that he was entitled so do to.

Witness my hand this .... day of ..... A. D. 191..

....., Judge.

Defendant's Exhibit 6.

Eq. 2131.—2-17-16.

Seattle Wash.

Saturday Dec. 19th, 1914.

Mrs. Minnie Folk. I want to see you meet me at the post office, answer or come with this boy.

Sadie James.

Defendant's Exhibit 6.

2131.—3-3-15.

In the United States District Court for the Eastern District of Oklahoma. The United States of America, Complainant, vs. Minnie Atkins, et al., Defendants.—Equity No. 2131.

AFFIDAVIT.

State of Oklahoma, County of Muskogee, ss.

Minnie E. Folk, being first duly sworn, deposeth and says:

I am Minnie E. Folk, one of the defendants in the above entitled cause. My maiden name was Minnie Atkins. I am about fifty years old and live at this time in Seattle, Washington. I was born at El Paso, Texas, and during my childhood lived at L Creek, in the Creek Nation, Indian Territory, near Muskogee. My father's name was Thomas Atkins and my mother's name was Mary Jane Atkins. I had a number of brothers and sisters, several of whom died when very

young; Nancy and Lee lived to be grown. Lee Atkins was killed some time in the early nineties. My father was a member of the Creek Tribe of Indians and I am a Creek Indian of the half blood. My mother and father are both dead. They died when I was quite young.

After my father died, I went to school at Tallahassee Mission, and stayed there in school until it was burned down. After the school was burned down I went to Carlisle to the Carlisle school and stayed there about three years. From Carlisle I went to Leavenworth and went to work for Mr. Geo. H. Hyde, a banker at Leavenworth. This was about the year 1883 or 1884. I do not remember years very well, but Hyde's was the first place I worked after I left Carlisle and I went to work for them just as soon as I got to Leavenworth from Carlisle.

While I was working at Mr. Hyde's I was going around town and a month or two after I was there I got into a family way. When I found I was in a family way I could not work at Hyde's any more and I went to other places in town and to Granny Letcher's, an old colored woman who lived on Seneca Street, and it was where my child was born.

This was my first child, a boy, and I named him Thomas Atkins.

Granny Letcher was part white and part negro blood and most of the people around her were negroes. I didn't want anybody to know I was living at that kind of a house. At Granny Letcher's there was Sam Nash, Walter Banks and Jim Mayo. These were the boys whom Gramy was raising and they were older than my Tommy.

As soon as I got well I left Granny's and after that came there only occasionally to see the baby. I went to Fort Leavenworth about three miles from Leavenworth, and went to work there.

Before Tommy was born I had not gone with any soldiers. I went out to work at the Fort for Mr. Grodevant and I worked for him for awhile and then I went to work for Mrs. Lieutenant Stafford.

I didn't tell anybody at the Fort about my having been at Granny Letcher's or about my having associated with people who were around Granny Letchers; or my having given birth to Tommy. After I was working at the Fort I went into town from time to time and went to Granny Letcher's and helped take care of the baby. I didn't tell anybody about my doing that or about my going to Letcher's.

While I was working at Lieutenant Stafford's I met

Charles Peterkin, a soldier in the 18th Infantry, stationed at the Fort, and became associated with him as husband and wife. I worked for Lieutenant Stafford about a year I think, and left there because I was about to give birth to my second child. This child was born in Leavenworth and only lived a short time. It was a boy child and was buried in the cemetery near Leavenworth. Quite awhile after the birth and death of my second child the 18th Infantry was transferred to Fort Logan, Colorado, and I went there to join Charles Peterkin a little while later. When I left Leavenworth, Tommy was about two years old.

At Fort Logan I gave birth to a girl baby, which I named Alice, but we called it "Mable." This is the little girl whom I wrote about to the Indian Territory when I wrote about Thomas. I do not know how they got her name "Mary." Before Mable died I wrote to the Indian Territory ["to Kate Holden, my half sister, and I told her" marked out with ink, and "G.M.W." written on margin] about Thomas and Mable. Mable only lived a little while and was buried in the Post cemetery at Logan.

While I was at Fort Logan and after the death of Mable, the 18th Infantry was transferred to San Antonio, Texas, but I remained at Fort Logan and became associated with "Bev" Harrison, and lived with him as his wife. He had the Government contract for furnishing meat to the Post. While living with Bev Harrison I gave birth to two children, both boys, whom I called Charlie and Harvey Harrison. When Charlie could walk and Harvey was in short dresses I went down to the Indian Territory and took Charlie and Harvey with me. I talked to my relatives about my children and told them the little girl was dead. I went to the 1895 payment at Okmulgee and saw the pay roll there. They had the little girl and Thomas, and Harvey and Charlie. I saw Sam Brown there. I stayed around Indian Territory for awhile and left my two boys, Charlie and Harvey, with my half sister, Kate Holden.

I saw my sister, Nancy Atkins, at Wagoner, and Nancy told me that she had had a girl child but that it died the day after it was born and was buried near Wagoner. While I was there my brother, Lee Atkins, was killed at Eufaula. After awhile I went back to Fort Logan. From Fort Logan I went to Detroit, Michigan; from there I went to Vancouver Barracks; from there to the Phillipines; from there back to Vaucouver and from there to Helena, Montana, and from there to Seattle, Washington, where I now live.

I have been married about eight years to Harry B. Folk,

who is a corporal in the 14th Infantry of the United States Army.

Within the last year people have been coming to me about my boy Thomas. I was always ashamed of where Tommy was born. I didn't want people to know who I was going with when I began carrying him, and at the time he was born. After he was born I tried very hard to forget and have people forget the life I led at that time. I didn't tell people my boy was born at the old colored woman's house until I had to. I thought after they knew he was born and was my son that that was all there was to it.

My husband is a white man and in the army, and I did not want him to know that part of my past.

My boy Tommy was born at Granny Letcher's, up-stairs in the second story. There are lots of people in Leavenworth whom I knew then who are now in Leavenworth, and know about him. After I went to Fort Leavenworth I didn't live in Leavenworth but stayed out at the Fort.

I was sick once when I was living at the Fort and went to the Sister's Hospital for a female trouble.

A little while ago Frank Montgomery and a one-armed man and a negro woman named Sadie James, also a man named Robinson came out to my house in Seattle, and bullied and harassed me, trying to get me to tell that Tommy was not my child. I am an old woman, and my health is not good, and they wore me out pestering me and telling me that I had not told the truth and tried to prejudice me against my friends. I am telling the truth. Tommy was my boy; he was my first child, and he was born at Granny Letcher's. I told them in the Indian Territory that his father was a white man.

Minnie E. Folk.

Subscribed and sworn to before me, this 3 day of March, A. D. 1915. (Seal) Grace M. Wood,

My Commission expires February 8, 1919. Notary Public.

Defendant's Exhibit 7.

Eq. 2131.—2-19-16.

State of Missouri, County of Jackson, ss.

Be it known that I, Frank L. Montgomery, United States Probate Attorney, by and with the authority of R. C. Allen, National Attorney of the Creek Nation, have this day granted immunity to Sadie James for the commission of the crime of falsely and fraudulently representing herself as an agent

and officer of the United States government in that certain transaction or transactions wherein she attempted and did discover one Mary Folk, nee Atkins, giving and granting to her full immunity from prosecution for such crime in the representation so made.

Done at Kansas City, Missouri, this the 4th day of December, 1914.

Frank L. Montgomery,
United States Attorney.

Witness: W. C. Adams.

(On margin:) Shorthand Reporting Company, Suite 1 104 Grand Avenue Temple, Kansas City, Missouri.

Defendant's Exhibit 8.

Eq. 2131.—2-24-16.

Dec. 1-1879 when I went to school 66 age 15 years

St. Louis, Mo., Mar. 13, 1885.

Mr. Edward C. Fritsche.

Dear Sir:

I have the honor to announce to you that, having passed a satisfactory examination before the Faculty and Examining Committee, the degree of "Graduate in Pharmacy" will be conferred upon you, at the Annual Commencement, to be held March 18th, 1885.

Yours respectfully,

J. M. Good,
Dean of the Faculty,
St. Louis College of Pharmacy.

Defendant's Exhibit 9.

Minnie

Dennis Jones, Lawyer, Telephone 2270, Leavenworth, Kansas

Leavenworth, Kansas, Dec. 26th, 1914.

Gem Oil Co., Tulsa, Oklahoma.

The information that I have received relative to the actions of Sadie James, does not worry me in the least because whatever has been said by the people here who gave evidence before the Notary Public in the matter of Minnie and Tommie Atkins was truthfully said and based on solid facts as they

knew them and was not told in accordance with any frame up of Sadie James, if there ever was any such a thing as a frame up by her pulled off or put on in Leavenworth.

Sadie James came here some time ago and began an inquiry in the matter of the birth of Tommie Atkins and succeeded in finding several people who knew the facts relative thereto, and why she has taken the course she has is a surprise to me because I have at all times thought her honest and upright in her business dealings except as to one thing she attempted to do in the matter of having me as a Notary attach my jurat to a paper purporting to be a bona-fide deed to some land in Oklahoma somewhere, this attempt on her part was some time ago when she and two men came into my office from Kansas City Mo. with a paper and Sadie wanted me to acknowledge a signature that I never saw made nor had any knowledge of whatever, and upon my refusal to do so I said to her after the men had left my office that I considered that an attempt to do some one a great wrong and further it was a criminal intent on her part to ask me to do a thing of that kind, and also told her that I had made my reputation here as an honest lawyer and would not do anything that was not straight and honest she knows this to be true.

You can rely on the truthful statements of the men and women who have given their depositions to be based on just what really happened here in the birth of a baby boy borned to a woman who lived at Granny Letchers about 29 or thirty years ago and who was known as Indian Minnie or Minnie Atkins.

You can rely on me sticking to the interests of the Gem Oil Company as long as my services are of any use and when our relations are severed I shall upon my honor as a man and a lawyer reserve to my self all matters of business formally entrusted to me by said company.

Wishing all a "Happy New Year."

I am Very truly.

Dennis Jones

Defendant's Exhibit 9.

Eq. 2131.—4-5-16.—(3 sheets).

Deft 44 9
Eq 2131
4/5/16 (3 sheets)

217

Dec 21st. 1883 - 661

Max Schmelzer
Pants Side & Welt 8.00
Dec 21st 81

Wm James Sawn Over Coat 18.00
11½. 4½. 10½. 13½. 13½. 9½. 19. 38
8½. 7½. 20½. 32. 13½. 23½. 24. 11½.
19. 20½. 26. 16½. 37. 39½.

Ferdinand Walla Shirt 85.00
14½. 6½. 10½. 20½. 15. 8½. 18½. 30½. 9½.
8½. 20. 30½. 15. 28½. 32½. 26. 20½. 24½.
28½. 19. 45. 46½. 13. 28½. 17½. 21. 7½.
7. 20½. 10. 22. 41½. 27½. 45. 29. 20½.
19. 46. 48. 47. Outside Breast Pocket.

Pt McGraw P. Rec. 16.00

C. A. Steeper
McLouth

Mike Kung Coat & Pant 24.00

11½ 4¾ 11 19⅛ 13⅜ 8⅞
18½ 28½ 8⅜ 7¼ 20½ 31
13½ 24⅜ 28⅞ 21¾ 15½ 21⅞
26½ 16½ 36 33
13 24½ 12⅞ 20 20

220

Dec 26th 885- 697
184

Jm. Welch Sent 72.00

& B Sent 11 3/4 5. 9 3/4 18 1/2 13 1/4 9 1/8
No Outside 18 1/2 29. 8 1/2. 7 1/2. 20. 32.
B 13. 24 1/2. 29. 22 1/2. 17. 20 3/4
Locket on 25 1/2 17 1/4 36 33 1/2
inside 11. 24 12 1/2 19 1/2 20 1/2.
X 23 1/2 44 34 35 1/2 22 17 1/2 17
32. 37. 35. Side & 2 Hips

X L C Hangerman
Santa Fe 160.00

Ben Daniels
& B Sant. Sent 21 + C 12 14 72.00
13 1/2 5 1/2 11 20 1/4 4 9 3/4 19
30 1/2 9 1/8 7 1/8 21 33 30 1/4
27 1/4 31 3/4 24 1/2 20 25 3/32
20 1/4 42 1/2 40 13 1/2 26 1/2 13 1/2
21 1/4 22 1/2 23 1/2 44 1/2 34 41 1/2
26 1/2 18 1/2 18 39 1/2 43 44 1/2
Top + 2 Hip Outside B. & Locket
Sheridan P. & Nat 18.00
42 38 1/2 12 1/2 26 13 1/2 21 3/4
22 3/8 . 22 1/2 43 32 1/4 39
25 18 1/2 18 1/2 36 1/2 39 1/2 41
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Catem B 11 1/4 5 1/2 10 1/2 18 1/8 Sent 40.00
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23 44 1/2 34 1/2 36 22 1/2 17 1/2
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18.00

7 221

8 8 3
1 8 2

James White law
Pants 14.00
X 22 41¼ 21 39 25½ 17½
17½ 38 40½ 40 [illegible] 2 4.

C C Milton
S B Frank Suit 48.00
6¾ 17½ 11½ 5 10½ 19¼
13 19½ 18 19 33 9 17¾
X 5 8¾ 7 1/8 22 33¾ 13½
22½ 26½ 25 29½ 23½
18½ 21¼ 26½ 17 36 33½
12 26½ 13¼ 22 21¾
23 4 3¼ 33 37 22½ 19½
17½ 33 37½ 39

John Rollins
S B Strayhorn Sack Suit 48.00
11⅝ 43 9 17⅞ 12 8 5⅛ 18
29 5⅛ 7½ 19 31½ 7 24 29
22 17 20⅝ 29 17 36 32
11 28 11⅞ 19 19
21 42 32 35 22 17 17
30 35 37

X Mal Brown 40.00 52.00
D B Suit Suit & Pant

X James M Kelly
Jeans Pants 6.00

L E Warren
X 24½ 46 35 38 Pants 14.00
24 18½ 18 35½ 40 42½ [illegible] 2 10

222

1067
1074
1174

Geo Anderson
Pants 14.00
22 41 3/4 31 1/2 38 1/2 24 1/2
18 16 1/2 39 42 1/2 43 2 Hip

Geo Reynolds
D B Sack. Suit 45.00
10 3 4 7/8 10 1/4 11 1/2 12 7/8 8 17
29 8. 6 3 18 29 2 12 1 23
27 1/8 21 1/8 17 21. 25 16
34 32.
11 24 12 20 19 7/8
22 43. 33. 34 22. 17
17 31 36 27

Jack Collier
S B Sack Suit 48.00
7 1/8 15 11 5 9 7/8 15 7/8
13 9 18 5/8 20 5/8 34 9
20 6 8 1/8 7 5/8 19 31 13 5/8
22 1/2 26 24 1/8 29 1/8 22
18 20 25 18 38 34
12 25 12 21 5/8 21 5/8
22 44 34 35 22 18
17 33 38 39

Sam Blonger.
Suit 28.00
12 5/8 5 1/8 10 3/4 19 13 7/8
9 19 30 9. 7 1/8 21 33
14 25 7/8 30 28 19 28 3/8
26 18 39 37
12 26 13 21 21
23 45 34 38 24
18 19 36 40 40

1153 223
1147/8

Dr A.S. Chouteau
Suit 43.00

11 7/8 4 7/8 9 7/8 17 7/8 13 7 8 5/8 17
28 8 6 7/8 18 29 12 24 28 3/4
22 18 20 3/8 25 7/8 16 35 31
10 23 1/2 12 20 21
21 39 30 34 23 16 17
30 34 37

N.T. Haynes.
D B Suit Suit 40.00

11 4 7/8 10 18 7/8 12 1/2 8 18
29 8 7 19 31 12 7/8 23 28 3/4
22 1/2 18 21 7/8 25 3/4 16 35 32
11 24 12 7/8 20 20
21 40 31 35 22 17
16 31 34 35

E.R. Garland.
S B Suit 40.00

6 16 11 4 9 3/4 17 13 7/8
2 3/4 17 7/8 18 3/4 8 7/8 19 3 7/8 8 3/4
3 7/8 19 30 13 20 3/4 24 3/4 23 3/4
25 3/4 22 17 19 7/8 25 17 33 1/2 31
11 25 12 20 2
21 41 1/2 31 3, 35 22 17 17
34 35 38 D R

Mr Berrer Part 8.00
22. 41. 31 1/4. 3 7 1/2. 22 1/2
17 1/2 17 1/2. 31. 37. 32. Side

224

726

1155
79

X James Kane Pants 12 w 1203 2
22 41 31¼ 33 22½ 17 17.
31 36½ 37½ Seide +2 Hip

A Johnston Platte City
X Pants 12.00
23 42 31¾ 34½ 22½ 17
17 29½ 34½ 37½ Seide +2 Hip

Jacob Roybell 17.00
39½. 36½. 14.25½
Vest 13½ 21½ 21½ with a collar
Pants 23. 42¾. 32½. 37. 29
18½. 18. 36. 90. 41

A Sears
Style 14 Cutting & Making Pant 17.00
6¾ 17. 10½ 3¼. 10⅞. 19⅞. 18½
9⅞. 17½ 19¼. 32. 8¾. 18⅞
5¾. 8⅞. 7¼. 20. 31. 13¼. 21.
25⅜. 24⅞. 29¼. 22¼. 18 20¾
25⅞. 16¼.
37. 32. 10½. 24 13¾. 20¾
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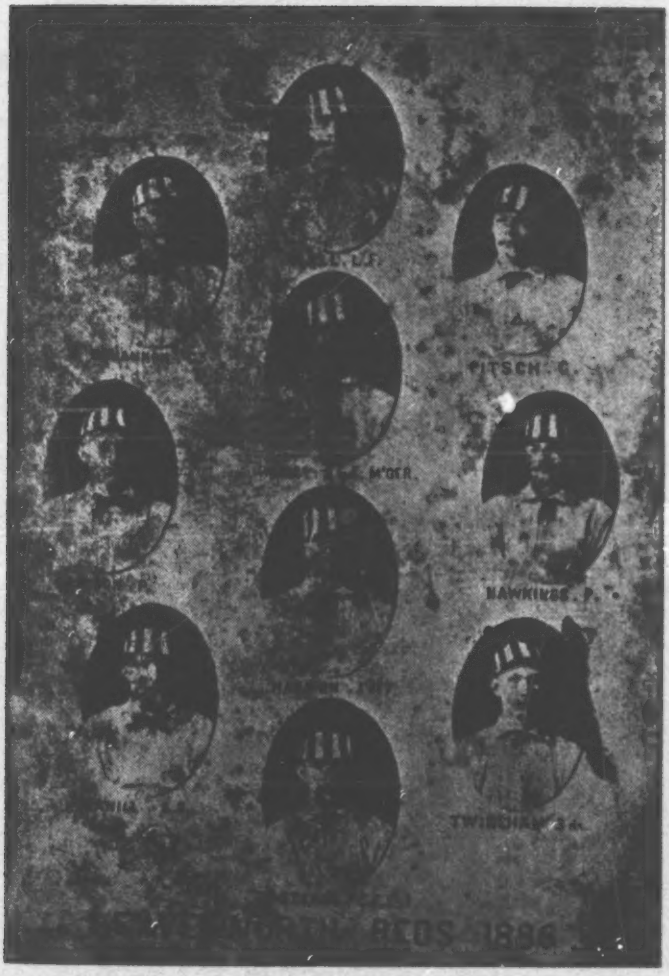
22. 41½. 31. 35. 23½ 17. 18
30. 34½ 37. top
Outside Pants
Capt J S Walsh 21.00
D O 12. 43 10. 20 19. 9. 18.
stock 31. 9. 8⅛ 21. 34 14 ⅜ 26.
21⅜ 21. 19. 213 27. 20.
41 39. 11. 26. 13⅞ 22 122.
23. 44 33 40 25. 19
19 38 41 42.

75


FITSCH. C.
HAWKINS. P.
REDS. 1886.

8

B-1

1			10.00	
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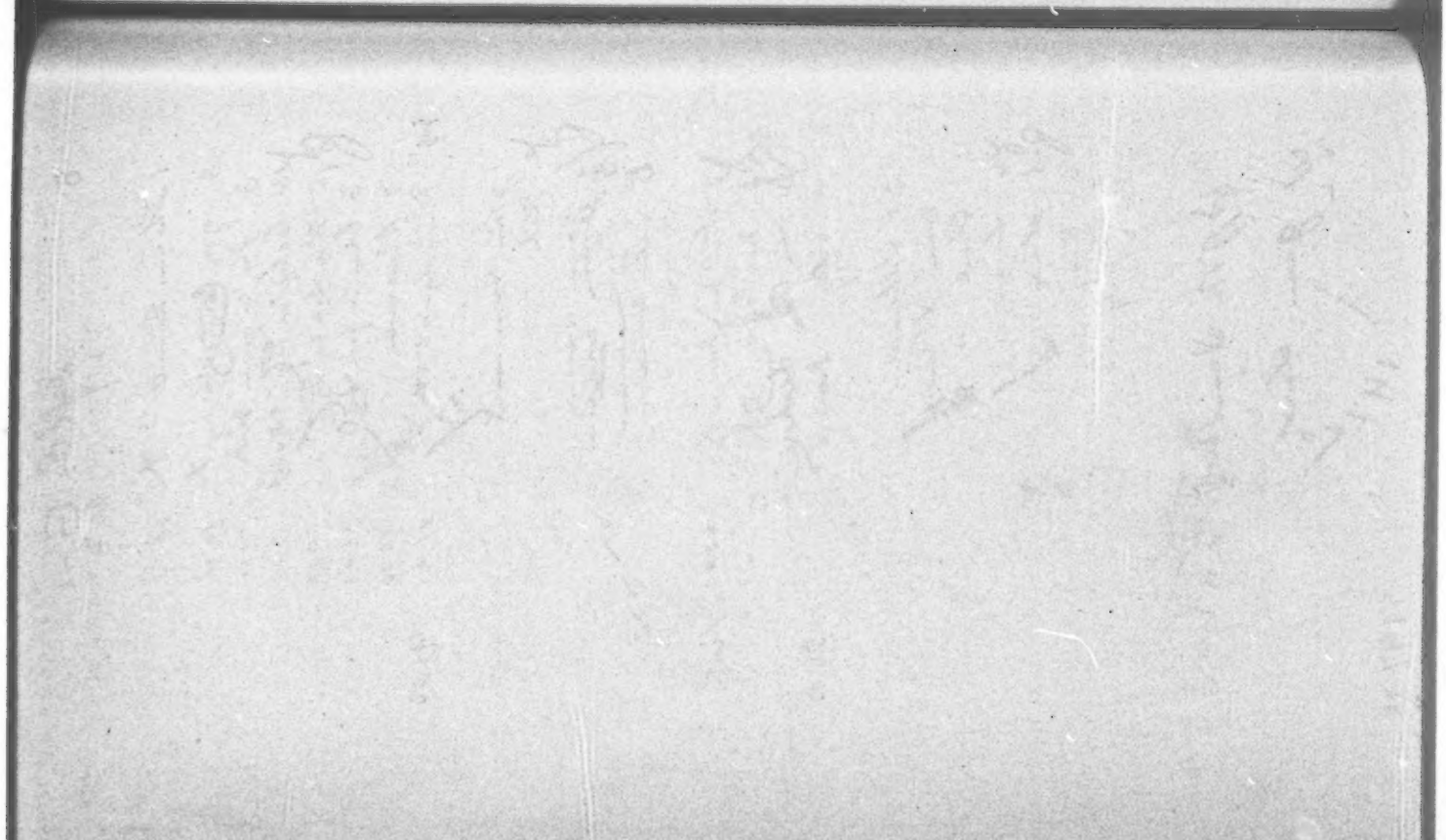

Defendant's Exhibit 10.

Eq. 2131.—4-5-16.

[See insert herewith for reproduction of photograph of Leavenworth Reds Base Ball Team of 1886.]

Defendant Minnie Atkins' Exhibit B-1.

CTD

[See insert herewith for photographic reproduction of page 8 of Memorandum Book of Sam Brown.]

Defendant Minnie Atkins' Exhibit B-2.

Triplicate

Report Form No. 1

Report made by: Don S. Rathbun; Place where made: San Francisco; Date when made: Apr. 15, 1916; Period for which made: Apr. 16, 1916.

Title of case and offense charged or nature of matter under investigation: In re. Minnie Aitkins, et al. Bureau Letter March 22nd, 1916.

Statement of operations, evidence collected, names and addresses of persons interviewed, places visited, etc.:

At San Francisco, Calif.

Received the following letter from Dr. A. L. Johnson, 96th Avenue, Elmburst, Calif.

Dear Sir:

I just returned from Camp Meeker 9:15 P. M. too late to telephone, therefore will write.

I went through my papers very thoroughly while in Camp Meeker and fail to find any further record of the birth of the Edward's baby. There is no mistake in the year 1884, as I was in Chicago that fall and it was the fall Cleveland was elected the first time as President, and the month of birth was April, but I have no way or knowledge whereby I can fix the day of the month. This is the best I can give in the case.

Resp. (Sgd) Dr. A. L. Johnson.

Copy of this report furnished to: U. S. Atty. Linebaugh, Muskogee, Oklahoma. -12-1 c7—877

Defendant Minnie Atkins' Exhibit B-3.

Dr. Acy Johnson, Nov. 24th, 1915.

c/o Dr. A. L. Johnson,
9240 Cherry St., Oakland, Calif.

Dear Sir:

It seems that in April 1885, you attended a woman named Mrs. Edwards, who lived in the old Seneca House in this City, which was on Seneca Street, between Second and Third, next door to a livery stable.

She gave birth to a girl baby one night, and you were gotten after considerable delay.

In a law suit which has come up the question of the exact date of the birth of this child has become material. I thought you, perhaps, would have a record of your visit, or have your old books showing your account with Mrs. Edwards, and if you have them, and can testify, I would like to take your deposition.

We are perfectly willing to pay you for all your trouble in looking this matter up, and for your *tile* in giving your deposition.

I wish you would kindly let me know whether you have any of your old records or books, and whether you have any record of the delivery of such a child, and I will communicate with you further.

Mrs. Edwards has married again, and is now living in Platte City, Mo., but Mr. Crille who owned the livery stable at that time still owns it, and is in business at the same place.

Enclosed you will please find a self-addressed envelope for answer.

Yours truly,

Defendant Minnie Atkins' Exhibit B-4.

No. 1324—96 Ave Oakland Calif Nove 27th 1915

Lee Bond

Leavenworth Kansas.

Dear Sir:

Yours of the 24th received and noted, in reply will say that I fully remember attending Mrs. Edwards and that she gave birth to a girl baby, and I further remember I never received a cent for my services; it was in April 1885, but I do not remember the day at that time I was liveing on the Hasting place south of town just out side of city limits.

All of my old books are up at Camp Meeker this state and I may have the record of this birth am not sure. I keep a pretty good record of births while in Leavenworth and say at this writing that I have it of the Edwards baby, however it will cost me $4.00 the trip up to Camp Meeke (my summer home) and back, if you care to pay the $4.00 I will go up and see if I have it and if so will help you all I can.

Resp

Dr. A. L. Johnson

Defendant Minnie Atkins' Exhibit B-5.

Dr. A. L. Johnson,

1324 96 Ave., Oakland, Calif.

Dear Sir:

Your letter received, and enclosed you will please find my check for $5.00 to cover your expenses in trying to locate your records concerning the date of the birth of the Edward's baby.

I wish you would kindly let me know as soon as you have made the trip, as we will want to take your deposition in the near future.

Yours truly,

Defendant Minnie Atkins' Exhibit B-6.

File Dr. A. L. Johnson TA

1324 96 Ave Oakland Calif Dec 8th 1915

Lee Bond

Leavenworth Kansas

Dear Sir:

Your favor of the 1st with check for five dollars was received the 4th. I made the trip to Camp Meeker but am sorry to say I could not find any record of the birth of the Edwards baby. I had a box of books and papers that I had not opened in several years, and when I opened it found the mice had been in the box and nested among the papers, as a result a large amount was destroyed, so I was unable to make them out, and the record I think was among them. However I will give you the details of that birth and it may help out. I was liveing on the Hasting place out side of the city limits south and two miles from my office in April 1885 my office was at the corner of 5th and Seneca over Cusics Saloon. I had been called to see Mrs. Edwards two or three times prior

to her confinement and she wanted me to attend her when she was confined which was then in April I think about the middle (dont remember the exact date.) As I came to my office one morning found a call from Edwards and immediately went to the house, when I arived found another Physician there he was a stranger to me, and a new commer to the city I think he was from St. Joe Mo. a man of about 30 years of age. he did not stay long in Leavenworth, and as that was the only time I ever met him I do not remember his name.

There was a box stove in the room and a fire, two other women and Mr. Edwards. Mrs. Edwards was on the bed having nasty crampy pains which was doing her no good, and the doctor was seated with his heels on the stove hearth, and evedently did not know much about such cases.

I took in the situation and told them I guess they did not need two doctors there and I would go back one of the women spoke up and said she thought Mrs. Edwards ought to have the doctor she wanted, then Mr. Edwards said you both can stay. I said to the other doctor is that agreeable to you? He said it was. So I laid off my rubber coat (as it was raining that morning) had the bed pulled out from the wall so I could get to the right hand side, and I got Mrs. Edwards to that side of the bed and in the proper position and went to work with her, and the baby was born about 11 oclock A. M. I fixed up the baby and the mother, and left, the other doctor was still sitting there with his heels on the stove. I paid Mrs. Edwards two visits afterwards, and I never received a cent for my servesis. It was a Girl Baby. I am sorry I cant give you the exact day of the month.

Yours truly,

Dr. A. L. Johnson

Defendant Minnie Atkins' Exhibit B-7.

Leavenworth, Kansas, August 3rd, 1914.

This agreement made and entered into this 3rd day of August, A. D. 1914, by and between Gypsy Oil Company, party of the first part and Dennis Jones, party of the second part;

Whereas, it is the desire of first party to locate one Thomas Atkins and it is claimed by said second party that he has reason to believe that he knows the whereabouts of said Atkins.

It is therefore agreed that the said first party shall pay to second party the sum of $10.00 per day and all necessary expenses during the time necessary to locate said Thomas

Atkins and that C. E. Crawley, representing said first party is to go with said second party and in case the said Thomas Atkins is located and satisfactory arrangements are made with him and said first party and his *idenity* is established by witnesses the said second party is to receive the further sum of Five Hundred ($500.00) Dollars. The expenses of the witnesses necessary to establish his *idenity* in Court is to be paid by first party but their names and addresses are to be furnished by said second party.

It is further agreed that upon leaving Leavenworth a round trip ticket to the destination will be furnished to the second party by the first party and an advance payment of Fifty $50.00 dollars will be made.

Witness our hands the day and year first above written.

Gypsy Oil Co.,
By C. E. Crawley,
Dennis Jones.

Defendant Minnie Atkins' Exhibit B-8.

Form 562-1-8-14 F. P. Burnap Sta. & Ptg. Co. K. C. Mo.

GYPSY OIL COMPANY
M. M. Doan, Third Vice-President.
Tulsa, Okla.

C. E. Crawley, Assistant. August 20th, 1914.

In Reply Please Refer to File No.

Mr. Dennis Jones, Attorney at Law,
Leavenworth, Kansas.

Dear Sir:

I am in receipt of your letter of August 17th and note what you say regarding prospects.

Mr. Greenslade has explained to me the understanding he had with you at the time you left New York and this is the only way in which we would care to continue the search.

Mr. Greenslade who returned home yesterday advises me that he has written you, which letter you have probably received. I am writing Mr. Bond asking him to forward statement of your expense account, etc.

Yours truly,

2-16 C. E. Crawley.

Defendant Minnie Atkins' Exhibit B-9.

Form 527-6-19-14-2000 F. P. Burnap Sta. & Ptg. Co. K. C. Mo.

James B. Diggs, Attorney in Oklahoma; Henry McGraw, Rush Greenslade, Assistant Attorneys.

GYPSY OIL COMPANY
Legal Department.
Tulsa, Okla.

Dennis Jones, August 26, 1914.
Attorney at Law,
Leavenworth, Kansas.

Dear Sir:

In re. Thomas Atkins lease.

Your letter of August 26th at hand. I do not believe it would be advisable to go to Chicago to make further investigation at this time, at least until you have more definite information as to the present address or whereabouts of Thomas Atkins. I have taken the matter up with parties in Chicago as directed by Bud Minor and the Carbi woman in Washington, but to date have had no reply from them.

In event you obtain definite information as to the address or whereabouts of Thomas Atkins please write or wire me at once.

Your expense account received, same was O. K., and voucher will follow in the regular course.

Very truly,

G/Y Rush Greenslade

Defendant Minnie Atkins' Exhibit B-10.

This Agreement, Made and entered into on this 12th day of October, 1914, by and between T. E. Kirkbride, of Tulsa, Oklahoma, hereinafter called "Purchaser," and C. H. Rogers, of Tulsa, Okla., and S. E. Mann, of ....., hereinafter called "Brokers," Witnesseth:

Whereas, The West Half (W2) of the Northeast Quarter (NE4) of Section Five (5), and the Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), all in Township Eighteen (18) North, Range Seven (7) East of Indian Base and Meridian was allotted to one Thomas Atkins as a member of the Creek Tribe of Indians, said Thomas Atkins being enrolled opposite No. 7913 and being, at the time of his enrollment, ten years of age; and

Whereas, There are numerous parties claiming title to said premises as heirs of said Thomas Atkins and as purchasers or lessees of said pretended heirs of Thomas Atkins, it being charged by said pretended heirs and purchasers that said Thomas Atkins died many years ago, as a minor, intestate, without children or descendants of children; and

Whereas, Said spurious heirs and their grantees and lessees have no right, title or interest in and to said premises, though all such rights are claimed adversely to the said Thomas Atkins, allottee; and

Whereas, The Gypsy Oil Company, of Tulsa, Oklahoma, is now, and has been for more than one year past, in the open, notorious and actual possession of said premises; and

Whereas, Said Thomas Atkins, allottee, is now living and his existence and whereabouts are known to said brokers; and

Whereas, The said purchaser is desirous of being put in touch with said Thomas Atkins for the purpose of purchasing said premises from said allottee, said Gypsy Oil Company having agreed to waive all objection which it had or may have, by reason of its possession of said premises, to the making of this contract and to the receiving by said purchaser from said Thomas Atkins of the deed herein contemplated;

Now, Therefore This Agreement Witnesseth: That said purchaser, for himself, his heirs and grantees, in consideration of the said brokers producing the said Thomas Atkins in person, allottee of the above described premises, and obtaining from said Thomas Atkins a first valid warranty deed for the above described premises in favor of said purchaser for a sum not to exceed ..... Dollars, said deed to be procured and delivered to said purchaser within thirty days from the date of the signing of this contract, and further, in consideration of said brokers producing full, true, correct and competent legal evidence, whenever and wherever demanded by said purchaser, sufficient to prove to the Court having jurisdiction of said matter the identity of said Thomas Atkins and his right to the above described premises, agrees to grant, bargain, sell and convey to said brokers, or to such parties as they may designate, subject to an oil and gas mining lease theretofore to be given by the purchaser to the ..... Oil Company, by a good and sufficient deed, an undivided one-half interest in all right, title and interest in said premises which said purchaser may acquire hereunder, said deed to be delivered to said brokers within thirty days from and after the date the identity of said Thomas Atkins shall be legally ascertained, and the right of said Thomas

Atkins to the aforesaid land shall be legally and finally determined. And as a further consideration for the services of said brokers to be performed as herein set forth, the said purchaser agrees to give, or cause to be given, to said brokers 7½ per cent of the net profits derived from the sale of the oil or gas, or both, from said premises, under the working interest created under and by virtue of the oil and gas mining lease heretofore referred to, said net profits not to begin until after the original costs and current operating expenses of said lease have been liquidated.

It is understood that all expenses of recovering the aforesaid premises by the said Thomas Atkins, and of establishing the identity of the aforesaid Thomas Atkins, shall be borne by the said Thomas Atkins.

This agreement is personal as to the parties hereto, except as herein otherwise expressly provided, and not assignable.

In Testimony Whereof The parties hereto have subscribed their names and affixed their seals in the presence of ..... and ....., witnesses, on the day, month and year first above written.

Thomas E. Kirkbride (Seal)
Purchaser.

C. H. Rogers (Seal)

S. E. Mann (Seal)

Witnesses:

J. R. Kline, Tulsa, Okla.

Joseph E. Kirkbride, Tulsa, Okla.

State of Oklahoma, County of Tulsa, ss.

Before me, the undersigned, a Notary Public in and for the County and State aforesaid, duly commissioned and acting, personally appeared T. E. Kirkbride, C. H. Rogers and S. E. Mann, each being to me well known, and each being by me first separately sworn, upon oath states that he has read, understands and signed the within and foregoing instrument, and acknowledged to me that he signed the same as his free and voluntary act, for the uses, purposes and considerations therein set forth, and I so certify.

Witness my hand and official seal, on this 12 day of October, 1914.

(Seal) J. R. Kline, Notary Public.

My commission expires Feb. 9th, 1916.

(Endorsed on back:) No. ..... In the ..... Court of ..... Memorandum of Agreement Between T. E. Kirkbride and C. H. Rogers and S. E. Mann. Haskell B. Talley, Tulsa, Okla., Solicitor for .....

Defendant Minnie Atkins' Exhibit B-11.

This Agreement, Made and entered into this ..... day of June, 1914, by and between Minnie A. Atkins, party of the first part, and Gem Oil Company, party of the second part,

Witnesseth:

That, Whereas, the hereinafter described premises constitute the allotment of Thomas Atkins, a citizen of the Creek Nation, Creek Role Number 7913, one-half blood; and,

Whereas, said Thomas Atkins was the illegitimate child of the first party; and,

Whereas, said Atkins died at ....., ..., on or about the .... day of ....., ..., leaving surviving him no father and leaving surviving as his sole heir, party of the first part, his mother who is the owner of said hereinafter described premises; and,

Whereas, said premises are claimed by various other persons and the title to the same is in dispute; and,

Whereas, said premises have become very valuable for oil and gas and are now producing same.

Now, therefore, the party of the first part has this day executed to the party of the second part an oil and gas mining lease on said premises and party of the second part agrees to use all efforts to clear the title to said premises and vest the same in party of the first part, subject to the said oil and gas mining lease. The party of the second part shall advance necessary court costs and employ attorneys at its own expense to carry on litigation or other proceedings necessary to vest said title of record in first party. First party specifically represents that the foregoing facts are ture as to heirship; that she has not executed a conveyance affecting said premises to any other person and that she will not do so.

The premises referred to above are described as follows:

"The Southwest Quarter (SW4) of the Northwest Quarter (NW4) of Section Four (4), the Southwest Quarter (SW4) of the Northeast Quarter (NE4) of Section Five (5), Lot Two (2) of Section Five (5), Surplus, Township 18 North, Range 7 East, containing 120.85 acres; and Lot

No. 4 of Section 4, Township 18 North, Range 7 East, homestead, 41.16 acres—all in Creek County, State of Oklahoma."

....,

Party of the first part.

Gem Oil Company

By .....

Attest: .....

State of ....., County of ....., ss.

Before me, the undersigned Notary Public in and for said County and State, on this ..... day of June, 1914, personally appeared Minnie A. Atkins, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written.

....., Notary Public.

My commission expires .....

State of ....., County of ....., ss.

Before me, the undersigned Notary Public in and for said County and State on this ..... day of June, 1914, personally appeared ....., to me known to be the identical person who executed the within and foregoing instrument as its ..... and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Witness my hand and official seal the day and year first above written.

....., Notary Public.

My commission expires .....

(On back:) Copy of Contract Minnie Atkins to Gem Oil Company Not executed

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Defendant Minnie Atkins' Exhibit B-13.

Tulsa, Oklahoma, August 20, 1914.

My Dear Mr. Josey:

I just wired you to disregard long letter of yesterday, which will reach you in the morning, and advising you that we are working on a new line of information.

Yesterday afternoon Sadie James, the Niger woman who has been working for Bartlett and the Gypsy came up to see us. I had a talk with her and took her in*to* to see Mr. Page. We are met last evening at the Park and went over the ground in detail. This afternoon I have had Sadie with Rice and Mr. Page.

She may be setting a trap; she may be double crossing us and still working for the other people, but we are going to give *a her* trial, cautiously.

Her story is this:

That the Gypsy and Bartlett have had her looking for a Thomas; that they found several, but none of them would do; that a deed was signed by one of them, but that they finally decided not to use any of the "fake" boys; and now that we have Minnie and they can't find a Tommy to use, she is out of the running and has no chance to make money. Had they had Minnie they could have had her identify a Tommy and put it over, but without her they were powerless.

She therefor- proposed to us that, for a consideration, she would produce witness, reputable people who would swear that Tommy was born and lived until 1899; that his Father was a negro.

Her story is plusible. We agreed in writing to pay her $1,000.00 if her dope wins the case for us, and gets us a valid lease. She is not to get a cent except a limited amount of expense money until we are finally declared the valid lessees.

All of her witnesses except two are at Leavenworth. I am going up there tonight with her, and will have them brought before me one at a time. Will tie them up in every way possible; and then we can see what there is to her dope.

[Illegible] thoroughly, gave us the names of the people to whom Minnie gave Tommie; how long they kept him; the names of people who knew him in Leavenworth, and the names of people who know that he is dead.

It is the best sounding story I have heard yet.

Now we are going to play out Bettie's string also, and let Hanford work with her. I am going to stay in the background in Leavenworth, and not let Sadie know Minnie is working for us and vice versa. In this way we can ascertain who is lying.

Will write you from Leavenworth the developments.

With best wishes, I am,

Sincerely yours,

Defendants' Exhibit B-14.

[See insert herewith for photographic reproduction of Creek Census Card No. 2707.]

Defendant Minnie Atkins' Exhibit B-15.

MACKAY TELEGRAPH-CABLE COMPANY
Connecting With
Postal Telegraph-Commercial Cables
Clarence H. Mackay, President.

TELEGRAM

The Mackay Telegraph-Cable Company transmits and delivers this message subject to the terms and conditions printed on the back of this blank

Counter No. ..... Time Filed .....M Check .....

Main Office Clinton Building 318 So. Boston, Tulsa, Okla. Telephone 3890.
(Design Patent No. 40529) 2M—12233

Send the following Telegram, subject to the terms on back hereof, which are hereby agreed to.

Cato Sells, January 18, 1915.

Commissioner of Indian Affairs, Washington, D. C.

We are advised Creek Attorney Allen has been authorized to bring suit to set aside Creek deeds issued to Thomas Atkins. Allen is working on false statement. He has been misinformed. We have not been permitted to submit facts. We are mailing you full and complete statement of facts and request that action be deferred until statement reached you. We court the fullest investigation.

Chas. Page.
R. A. Josey.

Send PAID Charge to Gem Oil Company.

[On back: Terms and conditions as above referred to —regular form.]

Defendant Minnie Atkins' Exhibit B-16.

MACKAY TELEGRAPH-CABLE COMPANY
Connecting With
Postal Telegraph-Commercial Cables
Clarence H. Mackay, President

Received at ..... Delivery No. .....

Residence

Post Office Muskogee, Ind. Ter.

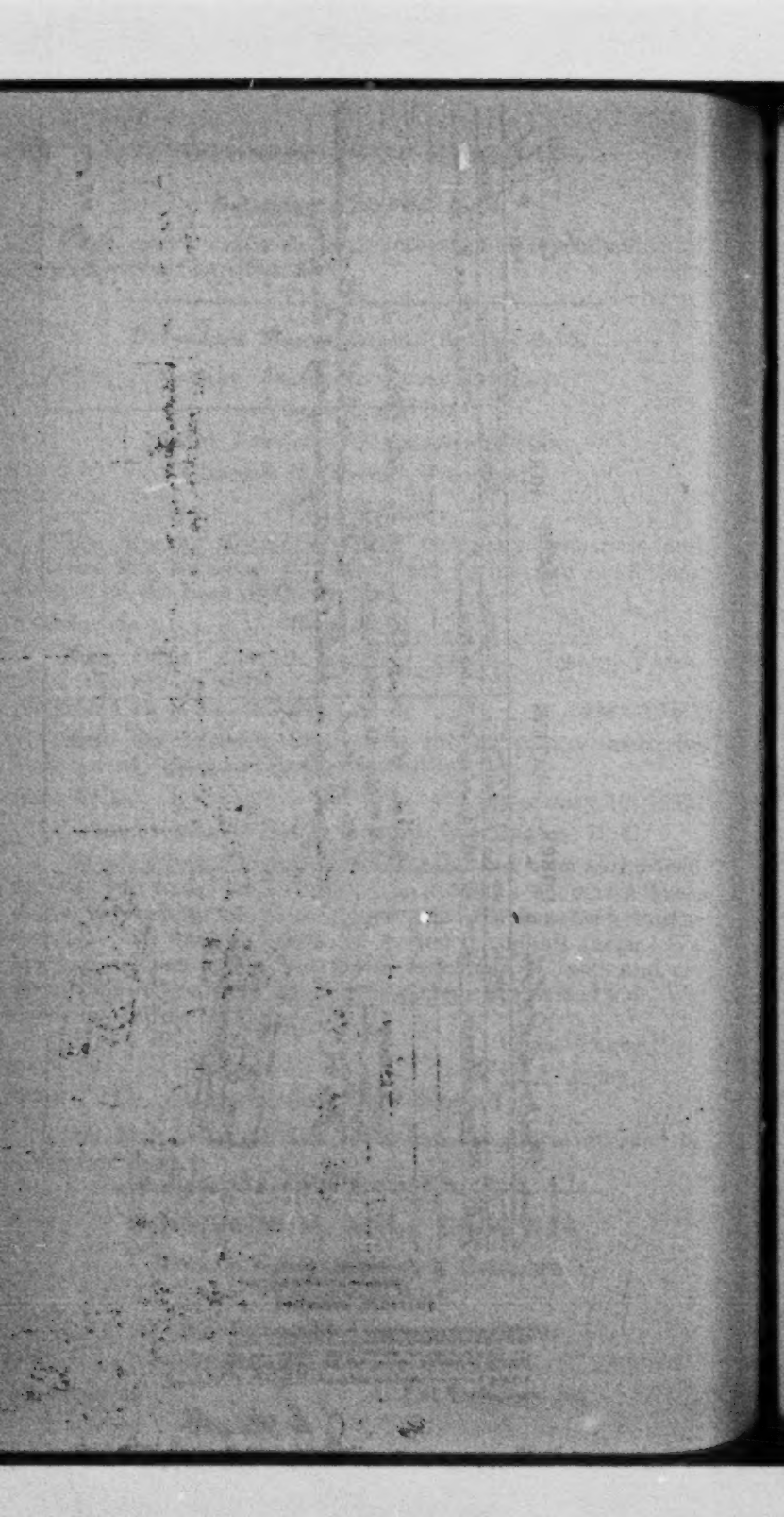
CREEK NATION CREEK ROLL

Card No. 2707
Field No. 2774

Dawes Roll No.		Name	Relationship to person first named on roll	Age	Sex	Blood	Tribal Enrollment: Year	Tribal Enrollment: Town	Tribal Enrollment: No.	Name of Father	Tribal Enrollment of Parents: Year	Tribal Enrollment of Parents: Town	Name of Mother	Tribal Enrollment of Parents: Year	Tribal Enrollment of Parents: Town
7118	1	atkins, Thomas		10	M	1/2	1895	Euchee	218	Shoteman		Town	Minnie atkins	1895	Euchee
	2														
	3														
	4														
	5	CITIZENSHIP CERTIFICATE					No 1 on 1895 auth. Roll no 218 as "Th, atkins"								
	6	ISSUED FOR No. 1					C.A. Miller Chief Ck Creek Enr. Office								
	7	June 27. 1902					Letter of may 9 1905 from the Commissioner to the Dawes Commission								
	8						directing that action be suspended in matter of issuing								
	9						cards to heirs of No. 1								
	10														
	11	ENROLLMENT OF THE ...													
	12	APPROVED BY THE SECRETARY OF THE INTERIOR													
	13														
	14														
	15														
	16														
	17														
	18														May 7th 1901.

DEPARTMENT OF THE INTERIOR
DAWES COMMISSION
RESIDENCE, OKLAHOMA

This is a correct copy of the enrollment of ... CREEK Nation ... as made by the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 28, 1898 (30 Stat. 495), and the Act of Congress approved July 1, 1902 (32 Stat. 641), and the Act of Congress approved March 3, 1903 (32 Stat. 982), and the Act of Congress approved April 26, 1906 (34 Stat. 137), and the Act of Congress approved May 27, 1908 (35 Stat. 312), and the Act of Congress approved April 30, 1908 (35 Stat. 70), and the Act of Congress approved March 1, 1907 (34 Stat. 1021), and the Act of Congress approved April 21, 1904 (33 Stat. 204), and the Act of Congress approved March 3, 1905 (33 Stat. 1048



NIGHT TELEGRAM

The Mackay Telegraph-Cable Company transmits and delivers Night Messages subject to the terms and conditions printed on the back of this blank.

24M—7765 Design Patent No. 40529
85 KS. W. 35 Govt. Night—12K- 38
Washington D. C. Jan 21, 15

Chas Page and R. A. Josey,

Tulsa, Oklahoma,

Your telegram Jany eighteenth suit instituted on Jan'y eighteenth against Minnie Atkins and others. Case in charge of department of Justice and creek tribal attorney.

Cato Sells, Commissioner.

[On back: Terms and conditions as above referred to —regular form.]

Defendant Minnie Atkins Exhibit B-17.

Telegram 3.

5—164a Telegram

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

Land—Five Tribes 7093-1915 J E D
Mail to January 21, 1915.

Charles Page and R. A. Josey,

Tulsa, Oklahoma.

Your telegram January eighteenth. Suit instituted on January eighteenth against Minnie Atkins and others. Case in charge of Department of Justice and Creek tribal attorney.

Cato Sells, Commissioner.

Postal 1-FLH-21 T A
Confirmation of telegram 6—2653

Defendant Minnie Atkins' Exhibit B-18.

Hon. Cato Sells, January 20, 1914.
Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:

Please refer to our telegram of January 18, 1915, with reference to proposed suit, in the United States District

Court, for the Eastern District of Oklahoma, by the United States, for and on behalf of the Creek Nation of Indians, to cancel deeds issued to Thomas Atkins, in which telegram we stated we would submit to you a complete statement of facts. Our purpose in writing you was to be given an opportunity to present our side of the case prior to the filing of the suit.

Now that the suit has been filed, we feel that it would be presumptuous for us to present any statement of facts, unless requested to do so by your office or the office of Creek Attorney Allen. We are ready and willing at any time, to furnish you or Mr. Allen with any information desired.

As stated in our telegram, we court the fullest and most complete investigation of our case.

Yours truly,

Defendants' Exhibit B-21.

No. 1477 Tulsa, Oklahoma, June 29, 1914

EXCHANGE NATIONAL BANK

Pay to the order of E. C. Hanford—$5,000.00
**Five Thousand & No/100——Dollars

Checked: Gem Oil Company
191 R. A. Josey Frank B. Long

Acceptance by endorsement is receipt in full for all items listed hereon.

(Stamped on face of check:) Exchange Nat'l Bank Exchange Jul 3 1914 Tulsa, Okla.

(Perforated in check:) 86-3 -7 -3 14

(Endorsed on back:) E. C. Hanford

Defendant Minnie Atkins' Exhibit B-22.

EXPENDITURES.

Atkins Lease to December 17th, 1914.

Schedule "A"

CV	55	8- 6-14	To Rig No. 1 from D. D. Weitzbeiger. . . . . $ 1,165.00
1632		8-18-14	To Lester Wheaton, 1 day laying water line. 2.50
1633		8-18-14	To Tom Green, 1½ days hauling calf wheels and 2" pipe. . 9.00
1634		8-18-14	To Roy Miller, 1 day hauling sand reel. 6.00

CV	87	12- 7-14	To expenses of A. A. Eberly in Atkins lease	6.92
1841		11-14-14	To Pioneer Tel. & Tel. Co., *To* October Tolls	.15
1912		12- 7-14	To M. K. & T. Ry. Co., freight on one car 2" pipe	34.73
1928		12- 7-14	To T. W. Hays, hauling material and casing	15.00
1929		12- 8-14	To W. Earnest, November labor on Atkins	3.00
1930		12- 8-14	To W. T. Carlisle, November labor on Atkins	6.00
1931		12- 8-14	To A. Onetott, November labor on Atkins	30.00
1932		12- 8-14	To W. N. Cue, November teaming on Atkins	27.00
1933		12- 8-14	To C. A. Fugate, November teaming	19.50
1934		12- 9-14	To Toler & Moore, November Livery	7.00
1902		12- 4-14	To C. B. Walker, apply on price of tank farm	100.00
1755		10- 4-14	To D. D. Weitzbeiger, reimburse for telephone tolls paid	.65
1947		12-14-14	To Pioneer Tel. & Tel. Co., November tolls, as charged to phone 771	1.55
1948		12-14-14	To Pioneer Tel. & Tel. Co., November tolls as charged to phone 1952	6.06
CV	96	11-27-14	To D. D. Weitzbeiger, furnishing material and building new band wheel, new calf wheels, pitman, setting real, etc., on Atkins No. 1	570.88
CV	99	11-30-14	To D. D. Weitzberger, boarding and renailing Atkins No. 1, framing calf wheels post and reinforcing Atkins No. 2 and furnishing material and building Atkins No. 3	1.433.63
2000		12-28-14	To C. B. Walker, balance purchase price of Tank Farm Site, accepted 12-4-14	1,396.40
CV	102b	11-20-14	To Gulf Pipe Line Company, surveying Tank Farm	20.39

CV	102a	12- 3-14	To South Chester Tube Company, 171 joints 5 3-16" pipe.	1,680.18
		12- 2-14	To South Chester Tube Company, 170 joints 5 3-16" pipe.	1,679.44
		11-26-14	To South Chester Tube Company, 81 joints 8 1-4" and 26 joints 5 3-16" pipe.....	1,303.88
CV	104	12-17-14	To Republic Supply Company, material furnished as per voucher.....	2,803.65
CV	118	11- 4-14	To S. E. Johnson, resetting tank.....	16.28
		12-10-14	To S. E. Johnson, resetting one tank.....	16.92
		12-16-14	To S. E. Johnson, resetting one tank.....	16.28
CV	107		To Cunningham Drilling Company, drilling Atkins No. 1.	1,775.00
CV	120	12-17-14	To Parkersburg Rig & Reel Co., 1 new 1600 bbl. tank....	500.00
CV	121	11-28-14	To South Chester Tube Company, 113 joints 8 1-4" casing.....	1,419.33
		11-30-14	To South Chester Tube Company, 109 joints 8 1-4" casing.....	1,413.28
		12- 3-14	To South Chester Tube Company, 141 joints 6 5-8" casing.....	1,675.84
CV	123		To Gruber Bros. Drilling Co., drilling Atkins No. 2.....	4,270.50
CV	125	11-30-14	To McMann Oil Company, gas furnished during month of November.....	100.00
			For'd	$23,531.94

[Page 2 of Defendant Minnie Atkins' Exhibit B-22.]

EXPENDITURES——Atkins Lease to December 17th, 1917.

Schedule "A"

			For'd	$23,531.94
CV	128	12- 8-14	To Producers Supply Company, 41' 10" pipe.....	$ 36.00
CV	129		To H. A. Hodgson, labor as draftsman on Tank Farm, account of Gulf Pipe Line Company.....	43.86

			To labor paid by Gulf Pipe Line Co.	9.67
			To material delivered by the Gulf Pipe Line Company in December.	1,234.87
			To property tax for first half of the year 1914.	7.46
CV	130		To Ross H. Rayburn, September and December premiums on policies covering material and stock.	468.00
CV	135	12-15-14	To Tulsa Rig & *T*eel Co., material and building Atkins No. 4.	875.00
		12-15-14	To Tulsa Rig & Reel Co., material and building Atkins No. 5.	875.00
		12-17-14	To Tulsa Rig & Reel Co., material and building Atkins No. 6.	895.00
CV	145 A	11-25-14	To 1—55,000 BBL tank *d*rected on Tank Farm by Petroleum Iron Works.	11,250.00
		11-25-14	To 1—55,000 BBL tank erected on Tank Farm by Petroleum Iron Works.	11,250.00
CV	134	12- 9-14	To 1—25 HP boiler delivered Atkins Lease by Oklahoma Iron Works.	420.00
CV	164	11-26-14	To 79′ 3″ of 10″ pipe delivered from Dewey Hawkins Lease	56.15
		12- 5-14	To 256′ 4″ of 5 3-16″ pipe delivered from Dewey Hawkins Lease.	112.46
		12- 5-14	To 798′ 6″ of 8 1-4″ pipe delivered from Dewey Hawkins Lease.	535.40
				51,600.81

Defendant Minnie Atkins' Exhibit B-23.

EXPENDITURES

Atkins Lease

December 17th, 1914, to January 18th, 1915

Schedule "B"

CV	97	12-22-14	To D. D. Wertzbeiger, material for Atkins Bunk House....	$ 31.15
CV	101½	12-30-14	To A. A. Eberly, 8 days labor in December.....	33.36
1970		12-18-14	To B. M. Kissling, November labor.....	10.70
1982		12-21-14	To Art Hays, November, salary as foreman.....	50.00
2027		1- 5-15	To M. K. & T. Ry. Co., demurage on pipe.....	6.45
2034		1- 7-15	To J. E. Offea, ditching line pipe to Atkins No. 3.....	13.33
2035		1- 7-15	To T. B. Baker, roustabout, 12 days in December, Atkins..	32.00
2036a		1- 7-15	To W. M. Vinneage, roustabouting in December, 14 days.....	37.33
2036B		1- 7-15	To P. Miller, roustabout, December, 15 days.....	40.00
2037		1- 7-15	To Harry Helms, roustabout, December, 2 days.....	5.67
2038		1- 7-15	To Jim Miller, roustabout, December, 1 day.....	2.67
2039		1- 7-15	To T. W. Hays, roustabout, December, 15 days.....	40.00
2040		1- 7-15	To Fred A. Taylor, December, labor as roustabout....	64.00
2041		1- 7-15	To H. J. Dumont, 1 day laying water line—month of December.....	2.67
2042		1- 7-15	To Jim Miller, December labor as roustabout.....	34.67
2043		1- 7-15	To T. N. Kelley, December labor as roustabout—2 days..	5.33
2044		1- 7-15	To R. T. Albertz, December labor as roustabout.....	49.33
2045		1- 7-15	To C. Heckenberry, December labor as roustabout—6 days	16.00
2046		1- 7-15	To Homer Fugate, December teaming on Atkins lease....	822.00

2047	1- 7-15	To Walter Goodman, teaming during month of December —1 day.	6.00
2048	1- 7-15	To Sam Raper, December teaming on Atkins lease— 5 days.	42.00
2049	1- 7-15	To W. Earnest, teaming on Atinks lease month of December.	123.00
2050	1- 7-15	To H. J. Alexander, December teaming.	36.00
2051	1- 7-15	To Robert Denison, carpentering—4 days.	18.00
2052	1- 7-15	To J. H. Billings, carpenter —4 days.	18.00
2053	1- 7-15	To Art Hays, December salary as foreman.	50.00
2054	1- 7-15	To W. E. Hays, roustabout, December—2 days.	6.00
2055	1- 7-15	To C. W. Spangler, hauling pipe to No. 2.	133.33
2091	1- 7-15	To C. A. Fugate, building fence on Atkins lease.	15.00
2092	1- 7-15	To Jennings Hardware Company, 4 spools wire.	9.40
2093	1- 7-15	To T. O. Ham, hauling 2″ pipe to Atkins lease.	68.50
2101	1- 7-15	To J. H. Wise, December ferry charges.	66.50
2102	1- 7-15	To Toller & Moore, December livery.	9.00
2103	1- 7-15	To J. R. Mays, December labor.	20.00
2105	1- 7-15	To M. K. & T. Ry. Co., demurrage on pipe.	54.00
1996	12-26-14	To W. E. Plarris, labor on tank farm.	19.50
1997	12-26-14	To J. Newell, labor on tank farm.	10.60
1998	12-26-14	To E. W. Hammons, part settlement for tank farm.	25.00
		Forward	$ 2,026.49

[Page 2 of Defendant Minnie Atkins' Exhibit B-23.]

Schedule "B".

EXPENDITURES—Atkins Lease—December 17th, 1914, to January 18th, 1915.

		Forwarded	$ 2,026.49
2006	12-28-14	To Frisco Railway Co., demurrage on 3 dars pipe.....	$ 21.00
2026	1- 5-15	To Frisco Railway Co., demurrage on tank material.....	15.00
2056	1- 7-15	To S. M. Thompson, teaming on grades 10 days.....	150.00
2057	1- 7-15	To J. H. Ferrill, teaming on grades 10 days.....	108.00
2058	1- 7-15	To H. T. Smith, teaming in December on grades—10 days.	105.00
2059	1- 7-15	To J. E. Wentworth, teaming on grades in December—9 days.....	150.00
2060	1- 7-15	To H. R. Parvin, teaming on grades in December—10½ days.....	105.00
2061	1- 7-15	To J. H. Anderson, teaming on grades in December—10 days.....	50.00
2062	1- 7-15	To J. M. Lawrence, labor on grades in December—7 days	21.00
2063	1- 7-15	To S. B. Simmons, labor on grades in December, 11 days 3 hours.....	33.90
2064	1- 7-15	To C. E. Wentworth, labor on grades in December, 10½ days.....	31.50
2065	1- 7-15	To W. D. Richmond, labor on grades in December, 10 days	32.40
2066	1- 7-15	To T. A. Visner, labor on grades in December, 10 days 3 hours.....	30.90
2067	1- 7-15	To J. A. Walker, labor on grades in December—10 days 3 hours.....	30.90
2068	1- 7-15	To L. M. Clark, labor on grades in December—5 days.....	15.00
2069	1- 7-15	To W. E. Pharno, labor on grades in December—1 day	3.00

2070		1- 7-15	To W. B. Robertson, labor on grades in December—4 days 8 hours.	14.40
2071		1- 7-15	To J. M. Patrick, labor on grades in December—3 days 8 hours.	11.40
2072		1- 7-15	To J. M. Watts, labor on grades in December—3 days 9 hours	11.70
2073		1- 7-15	To Joe Carter, labor on grades in December—3 days 9 hours	11.70
2074		1- 7-15	To C. E. Wentworth, labor on grades, balance account of J. Newell—December.	10.00
2090		1- 7-15	To J. H. Cocy, *settment* for damage to farm.	50.00
2100		1- 9-15	To E. W. Hammons, Balance salary on grade foreman for December.	21.00
2103		1- 9-15	To J. E. Mays, checking and roustabouting, December. . . .	22.50
2104		1- 9-15	To T. O. Ham, hauling steel and lumber during month of December.	1,117.65
2107		1- 9-17	To Frisco Ry. Co., demurrage on tank material.	28.00
CV	100	12-31-14	To E. B. Long, 20 days salary	200.00
1943		12-14-14	To John Mayes, reimbursing —fitting on 6" casing—paid.	9.10
2005		12-28-14	To Frisco Ry. Co., freight on tank material.	118.80
2026		1- 5-15	To Frisco Ry. Co., freight on tank material.	10.84
2106		1- 9-15	To Frisco Ry. Co., freight on tank material.	251.28
CV	112	12-21-14	To Black Sivalls & Bryson, erecting two tanks.	1,000.00
CV	118	12-22-14	To S. E. Johnson, second hand tank.	115.00
		12-27-14	To S. E. Johnson, 1 new 10x16	150.00
		11-16-14	To S. E. Johnson, 2d hand water tank.	120.00
CV	120	12-23-14	To Parkersburg Rig & Reel Co., 1 new 1600 bbl. tank. . .	500.00
		1-18-15	To Parkersburg Rig & Reel Co., 2 new 160 bbll. tanks. . .	1,000.00
			Forward	$ 7,677.46

[Page 3 of Defendant Minnie Atkins' Exhibit B-23.]

Schedule "B".

EXPENDITURES—Atkins Lease—December 17th, to January 18th, 1915.

			Forwarded	$ 7,677.46
CV	121	1- 6-15	To South Chester Tube Co., 169 joints 5 3-16" casing f..	$ 1,621.31
		1-15-15	To South Chester Tube Co., 252 joints 6 5-8" casing....	2,994.29
CV	122	12-22-14	To A. L. Dehner, building bunk house on Atkins lease.....	25.00
CV	124	1- 5-15	To Continental Supply Co., 1 No. 10 valve rod link.....	.57
		1-13-15	To Continental Supply Co., 896' of 12½" casing.....	1,218.—
CV	125	1- 1-15	To McMan Oil Co., gas furnished during month of December.....	185.00
CV	135	12-28-14	To Tulsa Rig & Reel Co., building No. 7.....	895.00
		12-28-14	To Tulsa Rig & Reel Co., material for No. 1.....	18.75
		1- 6-15	To Tulsa Rig & Reel Co., building No. 8.....	895.00
		1- 2-15	To Tulsa Rig & Reel Co., building No. 9.....	895.00
CV	134	1-14-15	To Oklahoma Iron Works, 1, 25 H. P. boiler.....	420.00
			Total	$ 15,800.38

Defendants' Exhibit B-24.

[See insert herewith for plat of part of City of Leavenworth, Kan., reduced to one-fourth.]

Defendants' Exhibit B-25.

[See insert herewith for photographic reproduction of Creek Census Card, No. 2707.]

Residence Harrison 5838 Glenn Pool Sand Creek Indian Territory

Post Office Mounds 5838 2nd Sec.

NATION. Creek ROLL.

Card No. 2707

Field No. 2774

Dawes' Roll No.		NAME	Relationship to Head of Family	AGE	SEX	Blood	TRIBAL ENROLLMENT Year	Distance	No.	TRIBAL ENROLLMENT OF PARENTS Name of Father	Year	Distance	Name of Mother	Year	Distance
7918	1	Atkins, Thomas		10	M	1/4	1895	Eufaula	218	Wm Atkins			Minnie Atkins	1895	Eufaula
	2														
	3														
	4														
	5														
	6														
	7						Natural born Citizen,								
	8														
	9														
	10														
	11														
	12														
	13														
	14														
	15														
	16														
	17														
	18														

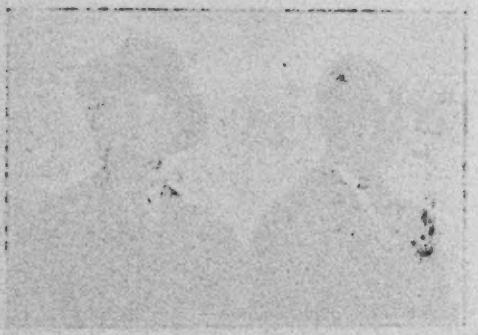
ENROLLMENT OF THE MUSKOGEE APPROVED BY THE SECRETARY OF INTERIOR MAR 27 1907

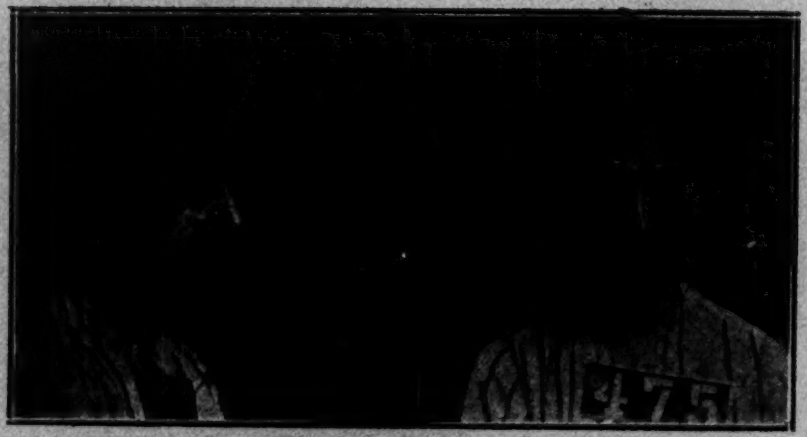
Act of Congress approved June 21, 1906

June 27, 1906

May 28, 1906

MUSKOGEE, Oklahoma APR 8 1913





[On back of photograph.]

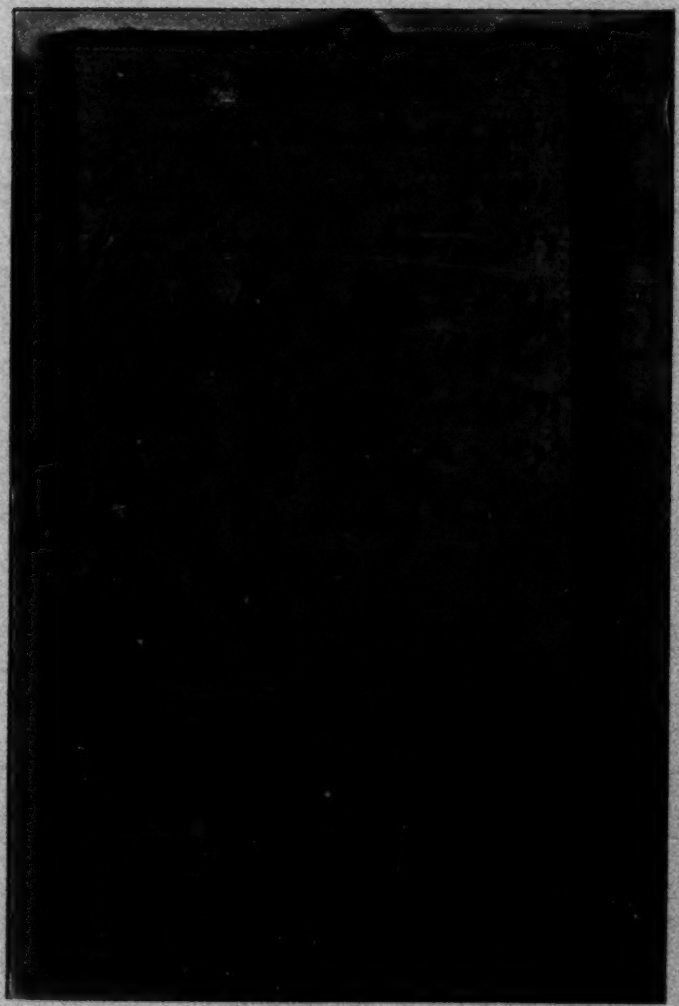
Meyer

DEPARTMENT OF POLICE
City of Tulsa, Okl'a
Bureau of Identification

No. 475

Name, Thomas Atkins
Alias. . . . . .
Crime, Investigation
Age, 28 Height, 5ft 5 inch.
Weight, 125 Build, Slight
Hair, Black Eyes. . . . . .
Complexion, Sallow Moustache. . . . . .
Born, K. C., Mo.
Occupation, Off Records
Arrested, 7/14/15
Received from. . . . . .
Sentenced, Released No evidence

Remarks: Born at Kansas City, Mo. Arrest at Browning Hotel in room with Danny Daniels, Burglar. Complete record & newspaper clippings.



Defendant Minnie Atkins' Exhibit B-26.

GEM OIL COMPANY
Tulsa, Okla.

Gem Oil Company, October 20, 1914.
Tulsa, Oklahoma.

Gentlemen:

Receipt is hereby acknowledged of $50.00, in full payment for all claims I have, or may have in the future, in the way of commission, or claim of any other character, for work done and for information furnished, on *all* and gas lease executed in your favor by Minnie Folk et al., covering the SW4 of NW4 of Sec. 4; and SW4 of NE4 and lot 2 of Sec. 5; and lot 4 of Sec. 4, all in Twp. 18 N., R. 7. E.,

In addition to this receipt you are hereby authorized and empowered, in consideration of payments heretofore made me, (to make settlement with Mrs. S. E. Mann, and her receipt for the) [words in parentheses stricken with pen and ink] same shall be my receipt therefor.

Signed: C. H. Rogers

Witnesses to signature:
F. B. Long,
H. V. Maddox.

Defendants' Exhibit B-27.

[See insert herewith for reproduction of photograph of Tommy York.]

Defendant Carter's Exhibit A-1.

[See insert herewith for reproduction of photograph of Thomas Atkins.]

Defendant Carter's Exhibit A-4.

[See insert herewith for photographic reproduction of Family Record from Carter Family Bible.]

In the United States District Court for the Eastern District of Oklahoma. United States of America, Complainant, v. Minnie Atkins, et al., Defendant.—No. 2131 Equity.

Order Approving Transcript of Evidence to Be Incorporated in Record on Appeal.

It appearing to the satisfaction of the court that in pursuance of the order of court entered herein on the 26th day of July, 1918, directing that all the evidence introduced at the trial of said cause be reproduced and printed in the record on appeal herein in the exact language of the witnesses, without abridgment or reduction, the complainant has this day lodged in the office of the clerk of this court a true and complete transcript of all the evidence admitted, and all the evidence offered and rejected at the final trial of said cause, together with all the depositions, exhibits, orders and rulings of the court, and all the objections and exceptions allowed during the progress of said trial, the opinions of the court announced at said trial, the motions made at said trial, the objections thereto, the action of the court thereon, and the exceptions saved, and all the proceedings had and conducted at said trial; on motion of complainant's solicitors it is

Ordered that the said transcript of evidence be, and the same is hereby approved as true and complete; and,

It Is Further Ordered that the same be filed in the clerk's office and made a part of the record in this cause, for the purpose of the appeal sued out herein.

Done in open court this 28th day of August, 1918.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Aug. 28, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 26th day of July, A. D. 1918, the following proceedings were had in this cause, Honorable RALPH E. CAMPBELL, Judge presiding:

Order That All Evidence Be Printed in Full.

And, to-wit, on the 26th day of July, A. D. 1918, came on to be heard the motion of the defendants, Nancy Atkins, Robert L. Rutherford and Arthur L. Ferguson as administrator of the estate of James A. Ferguson, deceased, to require the evidence in the above entitled action to be printed and reproduced in the exact language of the witnesses, and said defend-

ants appeared by their attorney, Malcolm E. Rosser, and the complainant United States of America appeared by its attorney, D. H. Linebaugh, and the Court heard said motion, and after hearing the same, and being well and sufficiently advised, finds that said motion should be sustained.

It is therefore by the Court considered and *ordered* that the record in the above entitled cause be printed in full, and that the evidence be reproduced and printed in the language of the witnesses without abridgment of reduction;

To which findings and order of the Court the complainant by its said attorney in open court excepted.

Dated this 26th day of July, A. D. 1918.

RALPH E. CAMPBELL, *Judge.*

And, to-wit, on the 26th day of July, A. D. 1918, the United States of America filed Petition for Allowance of Appeal, together with its Assignment of Errors, which Appeal was allowed by the Court. Said Petition for Allowance of Appeal, Assignment of Errors, and Order Allowing Appeal are in words and figures as follows:

Petition for Appeal to the United States Circuit Court of Appeals for the Eighth Circuit.

To the Honorable RALPH E. CAMPBELL, District Judge:

The above named complainant, feeling itself aggrieved by the decree made and entered in this cause on the 29th day of May, 1918, does hereby appeal from said decree to the United States Circuit Court of Appeals for the Eighth Circuit, for the reasons specified in the assignment of errors, which is filed herewith, and it prays that its appeal may be allowed and that a transcript of the records and proceedings in said cause, with all things concerning the same, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Eighth Circuit.

W. P. MCGINNIS,
United States Attorney;

ALVIN F. MOLONY,
Special Assistant to the
United States Attorney;

D. H. LINEBAUGH,
Special Assistant to the
Attorney General;
Solicitors for Appellant.

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Assignment of Errors on Appeal to the United States Circuit Court of Appeals for the Eighth Circuit.

Comes now the complainant, by W. P. McGinnis, United States Attorney for the Eastern District of Oklahoma, Alvin F. Molony, Special Assistant to the United States Attorney, and D. H. Linebaugh, Special Assistant to the Attorney General, its solicitors of record, and show that the final decree entered in the above entitled cause on the 29th day of May, 1918, is erroneous and unjust to the complainant, and complainant now files the following assignment of errors upon which it will rely in its appeal from said judgment and decree for a reversal of the same, to-wit:

ASSIGNMENT OF ERRORS.

I.

The Court erred in finding and deciding, contrary to the facts set forth in the amended bill of complaint and established by the evidence, that the defendant Minnie Folk (nee Atkins) is the owner and entitled to the possession of the land in controversy, subject only to the right, title and interest of the defendants Charles Page and Edward C. Hanford, claiming by, through or under her.

II.

The Court erred in not finding, and deciding that the allotment deeds to the land in controversy made in the name of Thomas Atkins were void, in that it was established by the evidence that said name was fictitious and did not represent any person that ever existed.

III.

The Court erred in not finding and deciding that the enrollment of the name Thomas Atkins, in which name the allotment in controversy was made, was void, in that it was established by the evidence that the Commission to the Five Civilized Tribes in taking such action inadvertently enrolled a name which was fictitious and did not represent any person that ever existed.

IV.

The Court erred in refusing to consider the evidence of-

fered on behalf of complainant for the purpose of establishing the non-existence of Thomas Atkins, which evidence by reason of its volume is not here set out in detail, and which evidence was considered by the court only upon the issues as joined between the two defendants Nancy Atkins and Minnie Atkins.

V.

The Court erred in finding and deciding that the enrollment and allotment of Thomas Atkins by the Dawes Commission precludes any proof on the part of the complainant that no such person as Thomas Atkins ever existed.

VI.

The court erred in finding as a matter of fact as among the defendants that Minnie Atkins, or Minnie Folk, gave birth to an illegitimate male child in the early part of June, 1885, at the home of a negro, known as Grannie Letcher, at 217 Seneca Street, in Leavenworth, Kansas, and that this child was by her called Thomas Atkins, and that this child was subsequently enrolled as a member of the Creek Tribe of Indians and allotted the land in controversy herein.

VII.

The court erred as a matter of fact in finding that the name Thomas Atkins, as enrolled as a member of the Creek Tribe of Indians, by the Commission to the Five Civilized Tribes, represented any person who ever existed.

VIII.

The Court erred in not cancelling the patents issued in the name of Thomas Atkins by the Dawes Commission and signed by the principal chief of the Creek Nation purporting to convey to the said Thomas Atkins, the

> Southwest quarter of the Northeast quarter and Lot Two (2) of section Five (5), and the Southwest quarter of the Northwest quarter and Lot Four (4) of section Four (4), township Eighteen (18) North, Range Seven (7) East of the Indian Meridian.

IX.

The court erred in not holding the enrollment of the name Thomas Atkins void in that it was established by the evidence that said name so enrolled represented no person then or ever in existence.

X.

The Court erred in finding and deciding, contrary to the facts set forth in the amended bill of complaint and established by the evidence, that the Dawes Commission, in enrolling the name Thomas Atkins, in which name the allotment in controversy was made, conducted proceedings which were adversary and not *ex parte*, and that the judgment of enrollment was not subject to attack for fraud intrinsic to the proceedings themselves.

XI.

The Court erred in not finding and deciding that the proceedings of the Dawes Commission, in enrolling the name Thomas Atkins, in which name the allotment in controversy was made, was purely *ex parte*, and the judgment of enrollment therefore subject to attack for fraud intrinsic to the proceedings themselves, as was charged in the amended bill of complaint and established by the evidence.

XII.

The Court erred in not finding and deciding that the facts set forth in the amended bill of complaint, if sustained, entitled the complainant to the relief prayed for.

XIII.

The court erred in not considering the evidence offered by the complainant, showing that the Thomas Atkins found on the Euchee Creek Tribal roll, opposite No. 213, and on the approved roll of Creek Indians, opposite No. 7913, was fictitious, and did not represent any person that ever existed.

XIV.

The Court erred in ordering, adjudging and decreeing that complainant's bill of complaint as amended, be dismissed, and in dismissing same.

XV.

The Court erred in sustaining the motion of the defendants and interveners for the dismissal of the Government's bill of complaint as amended, and the entry of a decree in favor of the defendants, Minnie Atkins, Charles Page and Edward C. Hanford.

XVI.

The Court erred in not ordering, adjudging and decreeing that the complainant do have the relief prayed for in its bill of complaint as amended.

XVII.

The Court erred in rejecting certain evidence offered by complainant as follows:

"Mr. German: We offer as Government's Exhibit A-16, a letter dated May 11, 1905, to H. G. Hains, Chief Clerk in the enrollment division of the Creek Nation, and signed by the Chairman of the Commission, advising that the deeds to this allotment of Thomas Atkins were held up pending further instructions. I will just offer all of these, Your Honor, and then one objection can refer to them all.

Then as Exhibit A-17, a certified copy of one page of the index book to the M Journal, showing the name of Thomas Atkins, and referring to page 113 in said M Journal.

Then a certified copy of, as Government's Exhibit A-18, page 113, of M. Journal, which is a record to the effect that the patents to Thomas Atkins, giving their numbers, have been ordered by the enrollment division on May 9, 1905, to be held account of his citizenship.

Then, as Government's Exhibit A-19, we offer a certified copy of one page of the index to special Creek Memorandum Book. This shows the name of Thomas Atkins and refers to page 124 of said book.

Then, a certified copy, as Government's Exhibit A-20, of page 124 of the Special Creek Memorandum book, which shows that these patents were ordered held on account of the citizenship of Thomas Atkins.

Then a certified copy of a letter, dated May 9, 1905, addressed by the Commissioner in charge to Will Robinson, Muskogee, Oklahoma, making inquiry as to the address of Minnie Atkins, whose testimony is desired and giving the census card number of Thomas Atkins up in the corner of the letter.

A letter, dated May 9, 1905, from the Commission to Noah Gregory, requesting him to furnish proof of death of Thomas Atkins, giving his census card No. 2774, stating that advice had been received that he is dead.

A letter dated May 9, 1905, as Government's Exhibit A-23, from the Commissioner in charge to E. B. Miller, advising that a question has arisen affecting the citizenship of Thomas Atkins and directing a suspension of the issuance of deeds to his heirs.

All of these exhibits coming from the office of the Commission, the Dawes Commission.

Q. Mr. Shanafelt, in connection with the offer of these exhibits, I will ask you whether the records in the office show any response to the letter addressed to Noah Gregory?

Mr. Hanford: Objected to as immaterial.

The Court: Sustained.

Mr. German: We offer to show in this connection by the witness that the records in the office of the Commission fail to show a response to said letter.

Q. In connection with the offer of Exhibit A-21, which is the letter to Will Robinson, we offer his answer thereto, which is written at the bottom of the letter in these words: "Don't know," signed by W. R. Robinson.

Mr. Hanford: Is that all the offer?

Mr. German: No, sir, we are not quite through.

As Government's Exhibit A-24, we offer in evidence a certified copy of a communication to the Commissioner of Indian Affairs, dated August 4, 1916, from R. C. Allen, Creek National Attorney, requesting that the matter of the alleged citizenship rights of Thomas Atkins, as commenced in 1905, be resumed. And, as a part thereof, Judge Allen's supplemental communication dated October 23, 1916, on the subject, setting forth the reasons why the name should be cancelled from the roll.

As Government's Exhibit A-25, we offer in evidence a certified copy of a communication dated August 12, 1916, addressed to the Commissioner of Indian Affairs, signed by Gabe E. Parker, Superintendent of the Five Civilized Tribes, relating to the matter of the proceedings pending before the Secretary of the Interior for determination of the citizenship rights of Thomas Atkins.

As Government's Exhibit A-26, we offer in evidence a certified copy of the notices issued to all the defendants in this lawsuit, and all other persons who have come forth asserting any claim of right, title or interest in the land in controversy, advising them that the Secretary would conduct a hearing on a certain date in the case involving the rights of citizenship of Thomas Atkins. Furthermore, said exhibit contains the order setting said case for hearing before him in Washington, D. C., and continuing the hearing from time to time. And we offer

in this connection to prove actual service of all such notice by registered mail.

As Government's Exhibit A-27, we offer in evidence the determination of the Secretary of the Interior, dated April 28, 1917, cancelling the enrollment of the name of Thomas Atkins on the final roll of Creek citizens, and directing that a notice be entered.

The Court: Does that cover all the offers in this connection?

Mr. German: Yes, sir.

The Court: I understand the same objection is offered as to all of them. Objection sustained and exception noted."

Wherefore, the complainant prays that the said decree be reversed and the District Court be instructed to enter a decree in accordance with the prayer of the amended bill of complaint, or that the United States Circuit Court of Appeals for the Eighth Circuit shall reverse said decree and on the record render a decree as prayed for by complainant's bill of complaint as amended, or, if neither of these be deemed just and equitable, that the said decree be reversed and a rehearing and retrial of said action by the District Court be ordered, and for all other proper relief.

W. P. McGINNIS,
United States Attorney;

ALVIN F. MOLONY,
Special Assistant to the
United States Attorney;

D. H. LINEBAUGH,
Special Assistant to the
Attorney General;
Solicitors for Complainant.

Endorsed: Filed Jul. 26, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Order Allowing Appeal.

It is hereby ordered that the appeal in the above entitled cause be and the same is hereby allowed as prayed, and it further appearing that the appeal herein is being prosecuted by the United States of America, it is further ordered that the

said appeal be without bond, and shall operate as a supersedeas of the decree herein made and entered on May 29, 1918.

Done in open court this 26th day of July, 1918.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the 28th day of July, A. D. 1918, the following proceedings were had in this cause, Honorable RALPH E. CAMPBELL, Judge presiding:

Order Reviving the Action in the Name of Arthur L. Ferguson, as Administrator of J. A. Ferguson, Deceased.

Now on this 28th day of July, 1918, came on for hearing the motion of Arthur L. Ferguson, as administrator, to be substituted as party defendant instead of James A. Ferguson, one of the original defendants in said action, and after hearing said motion the Court finds that same should be sustained.

It is therefore considered and *ordered* by the Court that the said Arthur L. Ferguson be substituted as party defendant instead of James A. Ferguson, deceased.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed July 28, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Citation.

United States of America, to Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kahooka Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon, and C. J. Wrightsman, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to an appeal filed in the Clerk's Office of the United States District Court for the Eastern District of Oklahoma, wherein the United States of America is appellant and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable RALPH E. CAMPBELL, Judge of the United States District Court for the Eastern District of Oklahoma, this 26th day of July, A. D. 1918.

RALPH E. CAMPBELL,
Judge of the United States District Court for the Eastern District of Oklahoma.

The undersigned attorneys of record of the appellees, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, Charles Page and C. J. Wrightsman, do hereby acknowledge service of a true copy of the foregoing citation this 2 day of August, 1918.

STUART & CRUCE,
E. C. HANFORD,
Solicitors for said Appellees.

The undersigned solicitors of record for the appellees, Nancy Atkins, Micco T. Harjo, guardian of Nancy Atkins, an incompetent, Robert L. Rutherford, and Arthur L. Ferguson, administrator of James A. Ferguson, hereby acknowledge service of the foregoing citation this 29th day of July, 1918.

JOSEPH M. HILL,
MALCOLM E. ROSSER,
Solicitors of record for said Appellees.

In the United States District Court for the Eastern District of Oklahoma. United States of America, complainant, vs. Minnie Folk, nee Atkins, et al.—No. 2131 Equity.

ACCEPTANCE OF SERVICE OF CITATION.

We, the undersigned solicitors for the defendants shown below, do hereby acknowledge the receipt and service upon

us of copies of the citation issued out of the United States District Court in the above styled cause, on the 26th day of July, 1918, for the purpose of appeal to the Eighth Circuit Court of Appeals from the judgment of the court heretofore rendered herein.

This the 29th day of July, 1918.

BLAKENEY & MAXEY,
Solicitor for Henry Carter.

JAMES B. DIGGS,
RUSH GREENSLADE,
WILLIAM C. LIEDTKE,
Solicitor for Gypsy Oil Company.

NIXON & NIXON,
Solicitor for J. Truman Nixon and Thomas Atkins.
by J. TRUMAN NIXON,

The undersigned solicitor of record of the appellee, H. U. Bartlett, does hereby acknowledge service of a true copy of the foregoing citation this 2nd day of August, 1918.

JOHN B. MESERVE,
Solicitor of record of the appellee, H. U. Bartlett.

Praecipe for Transcript.

To the Clerk of the above named Court:

You will please incorporate into the transcript of the record on the appeal taken by the complainant in the case of United States of America, complainant, vs. Minnie Atkins, et al., defendants, No. 2131 Equity, the following portions of the record, to-wit:

1. The Amended Bill of Complaint filed September 17, 1915.
2. The Disclaimer of T. S. Hurst, filed February 9, 1915.
3. The Disclaimer of F. F. Betzer, filed February 9, 1915.
4. The Disclaimer of the Gypsy Oil Company, filed February 22, 1915.
5. The Answer of Gem Oil Company, filed February 15, 1915.
6. The Answer of Thomas Atkins, filed June 10, 1915.
7. The Answer of Thomas Atkins, filed Ocltober 11, 1915.
8. The Answer of J. Truman Nixon, filed October 11, 1915.

9. The Answer of Thomas Atkins to amended bill of complaint, filed October 30, 1915.
10. The Answer of the defendant Charles Page, filed December 14, 1915.
11. The Answer of the defendants Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, filed December 23, 1915.
12. The Disclaimer of R. A. Josey, filed December 23, 1915.
13. The Answer of Nancy Atkins, filed December 29, 1915.
14. The Answer of Robert L. Rutherford and James A. Ferguson, filed December 29, 1915.
15. The Disclaimer of H. U. Bartlett, A. A. Hammer and H. E. Whitehead, filed January 25, 1916.
16. The Disclaimer of William S. Murphy, filed January 25, 1916.
17. The Answer of the defendants Harry B. Folk and Edward C. Hanford to the cross-complaint of Nancy Atkins, filed August 11, 1916.
18. The Answer of Charles Page to the cross-complaint of Nancy Atkins, filed August 11, 1916.
19. The Supplemental Bill, filed September 12, 1916.
20. The Opinion, filed December 1, 1917.
21. The Supplemental Memorandum Opinion, filed May 13, 1918.
22. The Decree, entered May 29, 1918.
23. The Order Reviving the Action in the name of Arthur L. Ferguson, as administrator of J. A. Ferguson, deceased.
24. The Petition for Appeal, filed July 26, 1918.
25. The Assignment of Errors, filed July 26, 1918.
26. The Order Allowing Appeal, entered July 26, 1918.
27. The Citation and Service thereof.
28. The Order that all the evidence introduced at the trial of said cause be incorporated in the record on appeal without abridgment or reduction, entered July 26, 1918.
29. The Order Enlarging the time to file record in the Circuit Court of Appeals, entered August 20, 1918.
30. The Transcript of Evidence, filed in pursuance of the Order entered July 26, 1918.
31. The Order Approving the transcript of evidence and making same a part of the record on appeal.
32. This Praecipe for Transcript, together with service thereof.
33. Your Certificate.

And complainant further requests that said record be printed under the provisions of the Act of Congress entitled: "An Act to Diminish the Expenses of Proceedings on Appeal and Writ of Error, or of Certiorari" (approved February 13, 1911), and that same be filed in the office of the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit at Saint Louis, Missouri, on or before the 15th day of June, 1919, the time for the filing of said record in the said Circuit Court of Appeals having been enlarged by this court until the day last mentioned, by order entered the 20th day of August, 1918.

D. H. LINEBAUGH,
Special Assistant to the Attorney General;
W. P. McGINNIS,
United States Attorney;
ALVIN F. MOLONY,
Special Assistant to the United States Attorney;
Solicitors for Complainant.

Service of the foregoing praecipe for transcript is hereby acknowledged this 31 day of August, 1918.

C. B. STUART,
E. C. HANFORD,
A. C. CRUCE,
Solicitors for Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, Charles Page and C. J. Wrightsman.

Service of the foregoing praecipe for transcript is hereby acknowledged this 28th day of August, 1918.

JOSEPH M. HILL,
MALCOLM E. ROSSER,
Solicitors for Nancy Atkins, Micco T. Harjo, guardian of Nancy Atkins, an incompetent, Robert L. Rutherford, and Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29th day of August, 1918.

JAMES B. DIGGS,
RUSH GREENSLADE,
WILLIAM C. LIEDTKE,
Solicitors for Gypsy Oil Company.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29 day of August, 1918.

J. TRUMAN NIXON,
NIXON & NIXON,
Solicitors for J. Truman Nixon and Thomas Atkins.

Service of the foregoing praecipe for transcript is hereby acknowledged this 29 day of August, 1918.

JOHN B. MESERVE,
Solicitor for H. U. Bartlett.

Service of the foregoing praecipe for transcript is hereby acknowledeged this 29 day of August, 1918.

BLAKENEY & MAXEY,
Solicitors for Henry Carter.
per F. V. WESTHAFER.

Endorsed: Filed Sep. 2, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

And, to-wit, on the July 26th, A. D. 1918, the defendants Nancy Atkins by her guardian H. A. Ridgeway, Arthur L. Ferguson, Administrator of the Estate of J. A. Ferguson, deceased, and Robert L. Rutherford filed Petition for Allowance of Appeal, together with their Assignment of Errors, which Appeal was allowed by the Court. Said Petition for Allowance of Appeal, Assignment and Order Allowing Appeal are in words and figures as follows:

In the United States Court for the Eastern District of Oklahoma. The United States of America, Complainant, v. *Minnie Atkins, Henry Carter, Charles M. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an*

incompetent, Charles Harrison, Thomas Harris, Kehookah Harris, Harey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, Defendants.—No. ....

Petition for Appeal.

The above named defendants, Nancy Atkins, appearing herein by her guardian, H. A. Ridgway, Arthur L. Ferguson, Administrator of the above named James A. Ferguson, and Robert L. Rutherford feeling themselves aggrieved by the decree made and entered in this cause on the 29th day of May, 1918, do hereby appeal from said decree to the Circuit Court of Appeals for the Eighth Circuit for the reasons specified in the Assignment of Errors, which is filed herewith, and they pray that their appeal be allowed and that citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which said decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Eighth Circuit; and they further pray for a proper order concerning the security to be required of them to perfect their appeal be made.

JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Solicitors for Nancy Atkins, Arthur L. Ferguson and J. B. White.

The foregoing petition is granted, and the appeal allowed, upon giving bond for costs in the sum of Two Hundred & fifty Dollars, conditioned as required by law.

RALPH E. CAMPBELL, *Judge.*

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Assignment of Errors.

Comes Nancy Atkins, appearing by her guardian, H. A. Ridgway, Arthur L. Ferguson, Administrator of the above named James A. Ferguson, and Robert L. Rutherford, defendants and cross-complainants and assign the following errors, to-wit:

I.

The Court erred in finding that Minnie Atkins had an illegitimate male child born to her in the early part of June 1895 at the home of a colored woman known as Granny Letcher, in the City of Leavenworth, Kansas, and that she named this child Thomas Atkins.

II.

The Court erred in the finding that prior to the compilation of the authenticated roll of 1895 of the Creek tribe Minnie Atkins had conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, which information was eventually imparted to the tribal authorities, compiling the roll and that Thomas Atkins appearing at No. 213 on Euchee Town Roll of 1895 was placed upon said tribal roll by the tribal authorities compiling the roll as the child of Minnie Atkins, pursuant to said information.

III.

The Court erred in finding that the Thomas Atkins appearing on 1895 authenticated tribal roll and later on Dawes Commission Roll was in fact the illegitimate child of Minnie Atkins born in Leavenworth, Kansas, in June, 1895.

IV.

The Court erred in finding that the Thomas Atkins enrolled on Dawes Commission Roll as No. 7913 was the son of Minnie Atkins.

V.

The Court erred in not finding that the illegitimate son of Minnie Atkins born at Granny Letcher's at Leavenworth, Kansas, in June 1895, assuming the existance of said Thomas Atkins, was not the Thomas Atkins enrolled as No. 213 on Euchee Town Roll of the Creek Tribe in 1895.

VI.

The Court erred in not finding that the illegitimate son of Minnie Atkins born at Granny Letcher's in Leavenworth, Kansas, in June 1895, assuming the existence of said Thomas Atkins, was not the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901, as No. 7913.

VII.

The Court erred in holding that there was an identity of the son of Minnie Atkins and the Thomas Atkins enrolled May 23, 1901, by the Dawes Commission as No. 7913.

VIII.

The Court erred in not finding that Nancy Atkins had an illegitimate child born to her at Wagoner, I. T., in 1890 named Thomas Atkins.

IX.

The Court erred in not finding that the Thomas Atkins on Euchee Town Roll of the Creek Tribe of 1895 as No. 213 was the son of Nancy Atkins.

X.

The Court erred in not finding that Thomas Atkins enrolled on May 23, 1901, by Dawes Commission as No. 7913 was the son of Nancy Atkins.

XI.

The Court erred in not finding that Thomas Atkins died leaving Nancy Atkins as his sole heir.

XII.

The Court erred in not finding Nancy Atkins and the defendants claiming under her as lessees entitled to the land in controversy according to their several interests.

XIII.

The Court erred in finding Minnie Atkins and the defendants claiming under her entitled to the land in controversy.

XIV.

The Court erred in ruling on the offered testimony of J. E. Newberry that common reputation in Wagoner that a little boy in that town was her son, known as Tommy Atkins, was not admissible, which said ruling was as follows:

"The Court: Well, I am impressed with these authorities that the Federal rule would exclude this general reputation of persons not members of the family. I shall sustain the objection and give you an exception as to the general reputation in the community among persons other than the members of the family.

Mr. Hill: We will offer that to prove by this witness that it was generally reputed in that neighborhood that this boy known as Tommy Atkins was the son of Nancy Atkins.

The Court: The record may show your offer and the ruling of the court and your exception."

XV.

The Court erred in ruling as follows:

"Now, here is a case where the evidence has gone far enough to show that it is contended by the Nancy Atkins interest that Nancy had a child, probably about twenty seven years ago, up at Wagoner, which is fifteen or sixteen miles from Muskogee where this case is now being tried. It is contended as against the contention of the Government, that the child which she had died, this child lived to be four or five or six years old; that it was around with her in Wagoner for several years as a little baby and as a growing child. The evidence has gone far enough to indicate pretty clearly that probably it will not be a contention that Nancy had more than the one child, and the question will revolve around that birth there, and as to whether that child was born dead and buried in its infancy, or whether it lived a number of years. If it died, as contended by the Nancy Atkins interest, it died a little more than twenty years ago. If there was any neighborhood reputation in that little community from Wagoner up there in regard to the birth and kinship of that child to Nancy, or its death, that reputation arose from matters of fact which certain people in the community knew. The facts which gave rise to that reputation must, in the nature of things, be very generally within reach of the parties now. Nancy Atkins, the mother, or reputed mother, of this child is a defendant and is in Court and may be called as a witness to testify as to its birth, the length of its lifetime, and the date of its death. And reviewing the whole matter, even taking the advanced position taken by Mr. Wigmore, I am of the opinion that the evidence, so far as it relates to

the general reputation in the community up there, outside of the family, in regard to these facts, is not admissible."

XVI.

The Court erred in refusing to admit the offered testimoney of James E. Long, as follows:

"What was the general reputation among the people of the town as to who was the mother of this child?

The Court: I suppose the objection is interposed to that?

Mr. Pinson: Yes, sir.

The Court: The objection will be sustained and exceptions noted.

Mr. Maxey: Now, we expect to prove by this witness that this child was generally reputed in the neighborhood to be the son of Nancy Atkins, among all of the people that knew him at the time or resided there.

The Court: The record may show the proffer and the objection sustained, to which you except."

XVII.

The Court erred in refusing to admit the offered testimony of Nolan Williams, as follows:

"Q. What was the reputation in the neighborhood there among the people as to whose child this was? Now, don't answer that yet.

The Court: Your objections, I suppose, is interposed as to this?

Mr. German: Yes, sir.

The Court: The record may show the objection; the objection sustained, and counsel may, if they desire, make proffer and your exception will be noted.

Mr. Maxey: We expect to prove by this witness that it was the general reputation in the neighborhood there among the people who lived at Wagoner at that time that this child—that he has described was the child of Nancy Atkins. Exception noted."

XVIII.

The Court erred, in refusing to admit the offered testimony of Jasper N. Skirmpsher, as follows:

"Well, I will ask you was there talk around the town among the people as to who this boy's mother was?

Mr. German: We object on the ground that it is hearsay.

The Court: Sustained.

A. Only——

Q. Never mind.

Mr. Maxey: Now, I offer to prove by this witness it was a common rumor and general reputation of the town that—among the people of the town that this child was a child of Nancy Atkins—this boy that he has described as coming to his store."

XIX.

The Court erred, in refusing to admit the offered testimony of Thomas Brewer, as follows:

"Q. Now, whose child was that generally understood to be among the people of the town?

Mr. German: We object to that as hearsay.

The Court: Objection sustained.

Mr. Maxey: Now we offer to prove by this witness that it was the general reputation among the people of the town of Wagoner at that time, that this boy that he has described was the son of Nancy Atkins."

XX.

The Court erred, in ruling on the offered testimony of W. A. McElroy, as follows:

"Q. Do you know what the general reputation, or repute in the town there amongst the people was as to whose child it was?

Mr. German: We object to that.

The Court: You may answer that yes or no. You are asked whether you know what the general reputation was there as to whether it was Nancy's child. Now, general reputation. You may answer yes or no.

A. Yes.

Q. That is made up by what people say about it.

The Court: All right, put the question.

Q. What was that general reputation?

Mr. German: We object to that as hearsay.

The Court: Sustained.

Mr. Maxey: Now, we offer to show by him that it was the general reputation in the town there among the people who lived there at that time, that this child he has described was Nancy Atkins' child."

XXI.

The Court erred in refusing to admit the testimony of Walter Posey, Frank Ingles, D. W. Best, R. F. Davis, J. K. McLaren and J. W. Ruble to this effect: The defendant, Nancy Atkins, offered to prove by each of said witnesses that they lived in the town of Wagoner, Ind. Ter., during various years from 1890 to 1900 and that they were personally acquainted with Nancy Atkins, and that they were personally acquainted with a certain boy in said town described by each, called Tommy Atkins, and that they knew the general reputation in the town of Wagoner as to who was the mother of said Tommy Atkins; and that it was the general reputation in that community and generally understood in that community that said boy, Tommy Atkins, was the son of Nancy Atkins."

JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Attorneys for the Nancy Atkins Interests.

Endorsed: Filed Jul. 26, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Appeal Bond.

Know All Men by These Presents:

That we, Arthur L. Ferguson, administrator of the above named James A. Ferguson, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway, guardian of the said Nancy Atkins; as principals, and Zeb B. Jackson, as surety, acknowledge ourselves to be jointly indebted to the United States of America. Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A.

Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrad, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, in the sum of Two Hundred and Fifty ($250.00) Dollars; Conditioned That,

Whereas on the 29th day of May, 1918, in the District Court of the United States for the Eastern District of Oklahoma in a suit depending in that Court wherein the United States of America was complainant, and Minnie Atkins, Henry Carter, Charles N. Ball, Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie R. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Robert L. Rutherford, James A. Ferguson, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, were defendants, numbered ..... on the Equity Docket, a decree was rendered against the said James A. Ferguson, now deceased, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of the said Nancy Atkins; and the said James A. Ferguson, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of said Nancy Atkins having obtained an appeal to the United States Circuit Court of Appeals for the Eighth Circuit, and filed a copy thereof in the office of the Clerk of the Court, to reverse said decree and a citation directed to D. H. Linebaugh, United States District Attorney, solicitor for Complainant, and to the said Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kehookah Harris, Harvey Harrison, a minor, A. J. Burchett as guardian of Harvey Harrison, a minor, Minnie Hall nee Atkins, Martin Rowe, Harry Harrison, Minnie E. Folk nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Norris, W. W. Walton. Ellis H. Hammett, Rufus B. Cobb, George C. Conrad, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzler and R. A. Josey, citing and adminishing them to be and appear at a

session of the United States Circuit Court of Appeals for the Eighth Circuit to be holden in the City of St. Louis, in the State of Missouri, sixty (60) days after the date of the said citation.

Now if the said Arthur L. Ferguson, as Administrator of the estate of James A. Ferguson, deceased, Robert L. Rutherford, Nancy Atkins and H. A. Ridgway as guardian of Nancy Atkins, an incompetent, shall prosecute their appeal to effect and answer all costs if they fail to make their plea good, then the above obligation to be void; otherwise to remain in full force and effect.

Arthur L. Ferguson, Adm. Estate of James A. Ferguson, deceased, Robert L. Rutherford, Nancy Atkins, H. A. Ridgway, Guardian Nancy Atkins,

Principals.

By JOSEPH M. HILL and
MALCOLM E. ROSSER,
Their Attorneys.

Zeb P. Jackson, *Sureties.*

Approved this 23d day of August, A. D. 1918.

RALPH E. CAMPBELL.

Endorsed: Filed Aug. 23, 1918, R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Citation.

United States of America, to United States of America, Minnie Atkins, Henry Carter, Charles M. Ball, Charles Harrison, Thomas Harris, Kahookah Harris, Harvey Harrison, a minor, A. J. Burchett, as guardian of Harvey Harrison, a minor, Minnie Hall, nee Atkins, Martin Rowe, Harry Harrison, Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gypsy Oil Company, a corporation, Gem Oil Company, a corporation, Charles Page, H. U. Bartlett, A. A. Hammer, William S. Murphy, Wilbur M. Morris, W. W. Walton, Ellis H. Hammett, Rufus B. Cobb, George C. Conrod, John R. Fields, James M. Brogan, Thomas Gilcrease, Robert Wilson, S. D. Shirk, H. E. Whitehead, T. S. Hurst, F. F. Betzer, R. A. Josey, Thomas Atkins, J. Truman Nixon and C. J. Wrightsman, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to an appeal filed in the Clerk's Office of the United States District Court for the Eastern District of Oklahoma, wherein Nancy Atkins, H. A. Ridgway, guardian of said Nancy Atkins, an incompetent, Robert L. Rutherford, and A. L. Ferguson, administrator of the estate of James A. Ferguson, deceased, are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable RALPH E. CAMPBELL, Judge of the United States District Court for the Eastern District of Oklahoma this 5th day of Aug, A. D. 1918.

RALPH E. CAMPBELL,
Judge of the United States District Court for the Eastern District of Oklahoma.

We hereby accept service of the within citation, this .... day of August, 1918.

STUART & CRUCE,
Solicitors for Minnie Folk, nee Atkins, Harry B. Folk, Edward C. Hanford, Gem Oil Company and Charles Page.

We hereby accept service of the within citation, this 7 day of August, 1918.

BLAKENEY & MAXEY,
Solicitors for Henry Carter.

We hereby accept service of the within citation, this 5th day of August, 1918.

W. P. MCGINNIS,
U. S. Atty., E. Dist. Okla.
ALVIN F. MOLONY,
Spec. Asst. U. S. Atty.
Solicitors for Complainant.

Praecipe for Transcript.

To the Clerk of the above named Court:

In addition to the portion of the transcript designated in the Praecipe for Transcript filed by the Complainant, The United States of America, in the case of United States of America v. Minnie Atkins, et al., No. 2131 Equity, the Defendants and Cross Appellants, Nancy Atkins by her Guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the estate of James A. Ferguson, deceased, and Robert L. Rutherford, request that you will please incorporate into the transcript of the record of the appeal taken, the following portions of the record, to-wit:

1. The petition for appeal filed on the 26th day of July, 1918, by the defendants and cross appellants, Nancy Atkins by her guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the estate of J. A. Ferguson, deceased, and Robert L. Rutherford.
2. The Assignment of Errors filed by the said defendants and cross appellants on the same day.
3. Order allowing the appeal of said defendants and cross appellants entered July 26th, 1918.
4. Bond for costs of appeal filed by said defendants and cross appellants; and
5. The Citation sued out by said defendants and cross appellants, together with the waiver of service thereof.

And said defendants and cross appellants further request that said portions of the record follow in the printing of said transcript the 27th portion designated by the Complainant in its praecipe, to-wit: the citation issued at the request of the complainant.

JOSEPH M. HILL,

MALCOLM E. ROSSER,

Attorneys for Defendants and Cross Appellants, Nancy Atkins by her Guardian, H. A. Ridgeway, Arthur L. Ferguson, Administrator of the Estate of J. A. Ferguson, dec'd, and Robert L. Rutherford.

Endorsed: Filed Sep. 3, 1918. R. P. Harrison, Clerk U. S. District Court, Eastern District of Oklahoma.

Order Enlarging Time Within Which to File Record in the United States Circuit Court of Appeals for the Eighth Circuit.

For satisfactory reasons appearing to the Court, the time for filing the record in this cause in the United States Circuit Court of Appeals for the Eighth Circuit, at Saint Louis, Missouri, pursuant to the appeal sued out, is extended until the 15th day of June, 1919.

Done in open Court this the 20th day of August, 1918.

RALPH E. CAMPBELL, *Judge.*

Clerk's Certificate.

United States of America, Eastern District of Oklahoma—ss.

I, R. P. Harrison, Clerk of the United States District Court for the Eastern District of Oklahoma, do hereby certify that the above and foregoing is a full, true and correct transcript of so much of the record in the case of *United States of America* v. *Minnie Atkins, et al.*, No. 2131 Equity, as was ordered by praecipe of counsel herein to be prepared and authenticated, as the same appears from the records in my office.

I further certify that the citations attached hereto and returned herewith are the original citations issued in this cause.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office in the City of Muskogee, dated this 15th day of April, A. D. 1919.

R. P. HARRISON, *Clerk*,

(Seal) By H. E. BOUDINOT, *Deputy.*

4986 Transcript of record.

In the United States Circuit Court of Appeals for the Eighth Circuit.

NANCY ATKINS ET AL., APPELLANTS,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. | No. 5425.

Appeal from the United States District Court, Eastern District of Oklahoma.

Additional testimony and proceedings brought up under stipulation of counsel.

4987 Transcript of record.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA ET AL., APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES. | Equity No. 2131.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL., APPELLEES. | Equity No. 2131.

Stipulation.

It is hereby agreed and stipulated by and between D. Hayden Linebaugh, Special Assistant to the United States Attorney General; W. P. McGinnis, United States district attorney; and Alvin F. Maloney, assistant United States district attorney, representing the United States of America in the above-entitled action; Charles B. Stuart and E. C. Hanford, representing the estate of Minnie Atkins, deceased; Charles Page and E. C. Hanford; Joseph M. Hill, N. B. Maxey, and Malcolm E. Rosser, representing Nancy Atkins; Arthur L. Ferguson, and persons interested in the claim of Nancy Atkins; and Messrs. Blakeney and Maxey, representing Henry Carter or Thomas Atkins, that the testimony taken at the trial of this action, on the ———— day of June, 1917, to the effect that John Davis was in the penitentiary at Detroit, Michigan, during the year 1895, may be printed and inserted in the record and treated as a

part of the record in this action on appeal with the same effect as if it had been printed at the time this appeal was first taken.

Dated this 21st day of August, A. D. 1919.

PAUL PINSON,
Special Asst. U. S. Attorney,
Attorneys for United States of America.

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C. B. STUART,
Attorneys for Minnie Atkins, Deceased,
Charles Page, and E. C. Hanford.
JOSEPH M. HILL,
N. B. MAXEY,
MALCOLM E. ROSSER,
Attorneys for Nancy Atkins, Arthur L. Ferguson et al.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE EASTERN DISTRICT OF OKLAHOMA.

UNITED STATES OF AMERICA, COMPLAINANT, v. MINNIE ATKINS ET AL., DEFENDANTS.	Equity No. 2131.

Stipulation.

It is hereby agreed and stipulated by and between W. P. McGinnis, U. S. district attorney; Paul Pinson, assistant district attorney; and R. C. Allen, Creek attorney, representing the United States and the Creek Nation in the above-entitled and numbered action, and Messrs. Stuart, Cruce & Cruce, and Wm. O. Beall, representing Charles Page, and E. C. Hanford, representing Minnie Folk nee Atkins, and Messrs. Hill, Fitzhugh & Brizzolara, N. B. Maxey and Malcolm E. Rosser, representing Nancy Atkins, and Blakeney & Maxey, representing Thomas Atkins, known as Henry Carter, that a certificate of Bernhardt Jacob, superintendent of the Detroit House of Correction of Detroit, Michiga', may be received in evidence upon the question of whether the John Davis, alleged by the Government to have caused the name of Thomas Atkins to be placed upon the rolls of the Creek Nation, was confined in the Detroit House of Correction, otherwise known as the Detroit Penitentiary, from some time during the year 1891 until some time during the year 1896, with the same effect as if the statement of the said

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Bernhardt Jacob as to the same facts had been taken under oath verifying and proving the records of the said penitentiary or house of correction as to the imprisonment of the said John Davis. Said certificate is hereto attached marked "Exhibit A" and made a part hereof.

It is further agreed that a letter of the said Bernhardt Jacob, superintendent of said house of correction, dated July 10, 1917, ad-

dressed to Messrs. Hill, Fitzhugh, and Brizzolara, of Ft. Smith, Arkansas, stating that the same John Davis did not leave said penitentiary or house of correction from the time he was received until the date of his discharge, may be received in evidence at said hearing with the same effect as if the said Bernhardt Jacob had testified to the same facts under oath verifying the record of said penitentiary or house of correction with reference to the confinement of the said John Davis. Said letter is hereto attached and marked "Exhibit B."

It is further agreed between the said attorneys that the certificate of J. H. Parker, U. S. marshal for the Western District of Arkansas, made on the 6th day of July, 1917, as to the contents of the register of the U. S. jail for the year 1891 at page 73 of said register, with reference to John Davis, may be received in evidence at said hearing with the same effect as if the deposition of the said J. H. Parker had been taken with reference to said register verifying and proving the contents of the said register. Said certificate is hereto attached, marked "Exhibit C," and made a part hereof.

Dated this ———— day of September, A. D. 1917.

PAUL PINSON,
Special Assistant U. S. Atty.,
Representing U. S. and Creek Nation.

C. B. STUART,
Attorneys for Defendant, Charles Page.

4990 C. B. STUART,
Attorney for Defendant, Minnie Folk.

MALCOLM E. ROSSER and N. B. MAXEY and
JOSEPH M. HILL and HENRY FITZHUGH,
Attorneys for Nancy Atkins.

Exhibit A.

Date received, Dec. 26th, 1891; name, John Davis; age, 46; court, U. S. Arkansas; crime, forgery and pension fraud; color, white; nativity, Indian Territory; occupation, farmer; relations, wife and children; religious belief, none; sentence, $600.00 and five years; expiration of sentence, December 18, 1896; date of discharge, Feb. 4th, 1896; weight when received, 136 lbs.; weight when discharged, 139 lbs.; date of sentence, Dec. 19, 1891.

I, Bernhardt Jacob, superintendent of the Detroit House of Correction, located in the city of Detroit, county of Wayne, State of Michigan, do hereby certify that the above is a true and correct copy of our prison register in the case of John Davis.

BERNHARDT JACOB, *Supt.*

Subscribed and sworn to before me this 29th day of June, A. D. 1917.

JOSEPH TALLMAN,
[SEAL.] *Notary Public, Wayne County, Michigan.*

My commission expires December 11th, 1917.

Exhibit C.

[Copy.]

UNITED STATES OF AMERICA,
Western District of Arkansas:

I, J. H. Parker, do hereby certify that I am the United
4991 States marshal for the Western District of Arkansas, and as such I am the custodian and in possession of the records of the United States jail at Fort Smith, Arkansas; and I further certify that the register of United States prisoners confined in the U. S. jail at Fort Smith, Arkansas (that is the register kept in 1891), at page 73, shows the following entries:

Names of prisoner—John Davis.
Description—(*a*) Age 47; (*b*) complexion, cop.; (*c*) color of hair, black; (*d*) color of eyes, black.
Height—5 feet 11 inches.
Date of commitment—Dec. 3, 1891.
Cause of commitment—Perjury.
Authority of commitment—Mittimus.
By whom committed—U. S. court.
Date of release—December 24, 1891.
By what authority released—Sent to house of correction, Detroit, Michigan.

In testimony whereof I have hereunto set my hand as such marshal, this 6th day of July, 1917.

(Signed) J. H. PARKER.

Subscribed and sworn to before me this 6th day of July, 1917.

[SEAL.] WM. S. WELLSHEAR,
Clerk, U. S. Dist. Court, W. D. Ark.

Exhibit B.

[Copy.]

[Detroit House of Correction. Bernhardt Jacob, Sup't.]

DETROIT, MICH., *July 10th, 1917.*

Messrs. HILL, FITZHUGH & BIZZOLARA,
Fort Smith, Ark.

GENTLEMEN: Replying to yours of the 4th inst., would say,
4992 John Davis, according to our records, did not leave this institution from the date he was received here until the date of his discharge. He served his full sentence less "good time allowance" and was not released from here on parole.

Trusting this is the information you desire, I am,
Yours, truly,

(Signed) BERNHARDT JACOB,
Superintendent.

I, R. P. Harrison, clerk of the District Court of the United States for the Eastern District of Oklahoma, at Muskogee, certify the foregoing pages hereto annexed, numbered two to six, inclusive, contain and constitute a true and correct copy of the record and proceedings which were omitted from the original printed transcript of the record in the case of United States of America, complainant, versus Minnie Atkins et al., defendants, and which omitted testimony and proceedings is herewith sent up to the United States Circuit Court of Appeals for the Eighth Circuit, in accordance with the stipulation of counsel therein set out, as the same appears on file in my office at Muskogee, in said district.

In testimony whereof I hereunto set my hand and affix the seal of said court at my office at the city of Muskogee, Oklahoma, this 2nd day of December, 1919.

R. P. HARRISON, *Clerk*,
[SEAL.] By W. H. CUNNINGHAM, *Deputy*.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Dec. 4, 1919. E. E. Koch, clerk.

4993 And thereafter the following proceedings were had in said causes in the Circuit Court of Appeals, viz:

Appearance of counsel for appellant in cause No. 5420.

United States Circuit Court of Appeals, Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL. } No. 5420.

The clerk will enter my appearance as counsel for the appellant.

D. H. LINEBAUGH,
Special Asst. to the Attorney General.
W. P. MCGINNIS,
United States Attorney,
PAUL PINSON,
Specl. Asst. U. S. Atty.
ALVIN F. MOLONY,
Specl. Asst. U. S. Atty.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, May 23, 1919.

(Appearance of Mr. Malcolm E. Rosser as counsel for appellees, Nancy Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Nancy Atkins, H. A. L. Ferguson, Admr. of James A. Ferguson, deceased and J. B. White.

4994 MALCOLM E. ROSSER.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, May 22, 1919.

(Appearance of Messrs. Hill & Fitzhugh as counsel for appellees, Nancy Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Nancy Atkins et al.

JOSEPH M. HILL,
HENRY L. FITZHUGH.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 11, 1919.

(Appearance of Mr. C. B. Stuart and Mr. M. K. Cruce as counsel for appellees, Minnie Atkins et al., in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellees, Minnie Atkins et al.

C. B. STUART,
M. K. CRUCE.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 12, 1919.

4995 (Appearance of Mr. Lee Bond as counsel for the appellee, Charles Page, in cause No. 5420.)

The clerk will enter my appearance as counsel for the appellee, Charles Page.

LEE BOND.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 15, 1920.

(Appearance of Mr. Malcolm E. Rosser as counsel for the appellants in cause No. 5425.)

United States Circuit Court of Appeals, Eighth Circuit.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL. } No. 5425.

The clerk will enter my appearance as counsel for the appellants.

MALCOLM E. ROSSER.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 2, 1919.

4996 (Appearance of Messrs. Hill & Fitzhugh as counsel for the appellants in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellants.

JOSEPH M. HILL.
HENRY L. FITZHUGH.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 11, 1919.

(Appearance of Mr. D. H. Linebaugh, Mr. W. P. McGinnis, Mr. Paul Pinson, and Mr. Alvin F. Molony as counsel for appellee, United States of America, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, the United States of America.

D. H. LINEBAUGH,
Special Asst. to the Attorney General.
W. P. MCGINNIS,
United States Attorney.
PAUL PINSON,
Specl. Asst. U. S. Atty.
ALVIN F. MOLONY,
Specl. Asst. U. S. Atty.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 2, 1919.

4997 (Appearance of Mr. C. B. Stuart and Mr. M. K. Cruce as counsel for the appellees, Minnie Atkins et al., in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellees, Minnie Atkins et al.

C. B. STUART.
M. K. CRUCE.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 12, 1919.

(Appearance of Mr. Rush Greenslade as counsel for the appellee, Gypsy Oil Company, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Gypsy Oil Company.

RUSH GREENSLADE,
Tulsa, Okla.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 13, 1919.

(Appearance of Mr. William C. Liedtke as counsel for appellee, Gypsy Oil Company, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Gypsy Oil Company.

WILLIAM C. LIEDTKE.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Sep. 8, 1919.

4998 (Appearance of Mr. Lee Bond as counsel for appellee, Charles Page, in cause No. 5425.)

The clerk will enter my appearance as counsel for the appellee, Charles Page.

LEE BOND.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 15, 1920.

Stipulation suggesting death of Minnie Folk, nee Atkins, and waiving revivor, etc., in causes Nos. 5420 and 5425.

UNITED STATES OF AMERICA, ET AL., APPELLANTS,
vs.
MINNIE FOLK ET AL., APPELLEES.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES ET AL., APPELLEES.

It is hereby stipulated, agreed, and admitted between the solicitors for the appellants, the United States of America and Nancy Atkins, on the one hand, and the solicitors of Harry B. Folk, Charles Harrison, and Harvey Harrison, appellees, on the other hand, that the appellee, Minnie Folk, nee Atkins, died intestate at Tulsa, Oklahoma (on the ———— day of ————, 1919, and that she left surviving her, as her only heirs under the laws of the State of
4899 Oklahoma, where the property in controversy is situated, her two sons, Charles Harrison and Harvey Harrison, and her husband, Harry B. Folk, all of whom are parties to this cause, duly and properly served and participating. No administrator has been appointed of her estate.

It is further stipulated and agreed that a *reviver* of said cause, in the name of the heirs, or personal representative, is waived, and that these appeals may proceed in all respects as though a reviver had been had, and that the final judgment of this court shall bind the

Before Hook and Carland, circuit judges, and Van Valkenburgh, district judge.

VAN VALKENBURGH, district judge, delivered the opinion of the court.

This case has been once before this court upon appeal from an order appointing a receiver. Some of the questions here presented were there discussed and ruled. The order appointing the receiver was reversed and set aside upon filing of bond in lieu thereof, and the case was remanded to the court below for further proceedings, not inconsistent with the views expressed in the opinion filed. (Folk et al. v. United States of America et al., 233 Federal, 177.) The main facts are succinctly stated by Judge Sanborn in that opinion.

One Thomas Atkins was listed for enrollment as a member of the Creek tribe of Indians by the Dawes Commission on May 23, 1901; was duly enrolled as such a citizen by that commission; was on March 1, 1902, reported to the Secretary of the Interior to have been regularly listed for enrollment and enrolled by it; to have been one of the Creek citizens "living on the 1st day of April, 1899, or born to citizens so entitled to enrollment up to and including the 1st day of July, 1900, and then living"; to have been found upon the 1895 authenticated Creek tribal roll and to have been enrolled by it as No. 7913 on its roll, and a copy of the part of that roll con-
5004 taining his enrollment and the enrollment of some others was submitted with the report, which the commission closed with this statement:

"The commission, after having thoroughly examined the rolls of the Creek Nation and such evidence as has been submitted, touching the identification of the persons on roll herewith submitted, is of the opinion that all are entitled to enrollment as Creek citizens by blood, and should be so enrolled."

The part of the roll so certified to the Secretary was approved by him; the land in the defendants' possession was allotted to Thomas Atkins; a certificate of allotment thereof to him was issued on June 30, 1902; patents therefor dated April 14, 1903, approved by the Secretary on May 8, 1903, were issued to him and were recorded in the office of the commission on May 16, 1903. It appears, however, that such patents were not actually delivered. Under leases, certain of the defendants were in exclusive possession of the land in controversy, drilling wells and producing oil, when, on February 15, 1915, the United States, on its own behalf, and on behalf of the Creek tribe of Indians, brought this suit to cancel and avoid the enrollment of Thomas Atkins as a Creek citizen, the certificate of allotment and the patents of the land to him, to perpetually enjoin him and all claiming under him from asserting any interest therein, or in the proceeds thereof, and for the appointment of a receiver pendente lite.

On September 17, 1915, an amended bill was filed, and September 12, 1916, a bill of complaint supplemental thereto. The complainant alleges that the Dawes Commission was charged with the duty of

determining who were entitled, under the acts of Congress, to be enrolled as citizens of the Creek Nation, and no one was entitled to be so enrolled who was not living on April 1, 1899; that Thomas Atkins was not living on that day; "that no evidence of any character was produced before, or obtained or had by, said commission with respect to the right of the alleged Thomas Atkins under said act of Congress to be so enrolled"; and that in causing his name to be placed on the roll of Creek citizens by blood the commission acted arbitrarily and summarily and without any knowledge, information, or belief that he was in existence or living or dead on April 1, 1899. Further, that the said enrolled and allotted Thomas
5005 Atkins was, and is, a distinctly mythical person; consequently, that the Dawes Commission was without jurisdiction to enroll that name or allot lands to him, and the patents in question were and are utterly void; further, that the commission, as a basis for the enrollment of the name of Thomas Atkins, used, as necessarily material evidence upon the question of the citizenship of Thomas Atkins, the 1895 pay roll containing his name; that that pay roll was false and fraudulent in so far as it contained that name; that the defendant Minnie Atkins caused it to contain said name, well knowing that it had no rightful place thereon, and concealed the fact that it represented a mythical person; that the proceedings of the Dawes Commission, resulting in said enrollment, were ex parte and subject to attack in this proceeding in equity. The supplemental bill presented the fact that the patents, though issued, had never been delivered, and prayed that this cause be not set down for trial until the Secretary of the Interior might assume and exercise in the premises a jurisdiction claimed still to exist in him over the subject matter of the controversy.

In order that the issues presented to this court for determination may be more clearly defined, it is necessary to review somewhat the proceedings in the court below after the case had been remanded for trial upon the merits as heretofore stated. The condition of the record is thus succinctly presented by Judge Campbell, and for precision and clearness we quote from his memorandum opinion of December 1, 1917:

"At an early stage in the taking of testimony in this case, after the plaintiff (United States) had produced the greater part of the evidence upon which it relied as to just what transpired before the Dawes Commission in May, 1901, at Okmulgee, when Thomas Atkins was listed for enrollment, and when it proposed to enter upon that branch of the case which involved the offering of proof in support of its contention that Thomas Atkins never had any existence, the objection was made by counsel for the defendants Atkins, Page, and allied interests that such evidence was inadmissible as being immaterial to any proper issue in the case. It was

then urged that the evidence already adduced by the plaintiff, so far from establishing the charge that the Dawes Commission had enrolled Thomas Atkins without having any evidence upon the question as to whether he was living April 1, 1899, on the
5006 contrary established that it had heard testimony upon this point. It was further urged in support of the objection that the Government's proof also showed that the hearing before the Dawes Commission as to the right of Thomas Atkins to be enrolled was not ex parte, as contended by the Government, but that the commission had acted as a quasi-judicial body in listing for enrollment and enrolling Thomas Atkins as a member of the Creek tribe, had heard evidence upon the things conditioning his right to enrollment, to wit, as to his being a citizen by blood of the tribe, his residence with the tribe, and his having been living on April 1, 1899, and that his enrollment by the commission and the issuance of patents pursuant thereto amounted to a judgment of that tribunal conclusively determining in his favor these several questions of fact as against any future collateral attack and against any direct proceeding to vacate or set aside such enrollment and patents except upon the grounds upon which the final judgment of a judicial or quasi-judicial tribunal may be attacked, that is, for such fraud or such mistake of law or fact as when established renders such judgments voidable. That the fraud charged against Minnie Atkins in relation to the procurement of the placing of the name of Thomas Atkins on the 1895 Creek roll was not the character of fraudulent act for which the judgment of the commission could be attacked, in that, if it was fraud, it involved a matter in issue before the commission and not an extrinsic or collateral matter. It was urged, therefore, that the question of the existence or nonexistence of Thomas Atkins was necessarily involved in the question of his being alive or dead on April 1, 1899, and that question having been conclusively determined by the commission could not be retried in this court. The matter was then orally argued quite fully, and the court, largely on the authority of Iowa Land and Trust Company *v.* United States (217 Federal Reporter, page 11), overruled the objection and permitted the plaintiff to offer proof as to whether Thomas Atkins ever existed, to which issue, as afterward developed, has been addressed the greater part of the testimony making up the colossal record in this case. Just before the close of the taking of the testimony in the case, which consumed more than a month, the opinion of the Supreme Court of the United States in United States *v.* Wildcat et al., commonly known as the "Barney Thlocco" case, was rendered, involving the question of the finality of the action of the Dawes Commission in enrolling Creek citizens and the issuance of patents to them
5007 or in their names. In the light of this decision, counsel renewed their objection above referred to and the court decided to reopen this question of law and permit counsel to brief the same, and

to further consider that question preliminary to the consideration of other features of the case. There was an effort on the part of the Government to secure a rehearing of the Thlocco case by the Supreme Court, but the court is now advised that this has been denied, so that the case stands as authority. Counsel for plaintiff in their brief say:

"'Even if we had proceeded with the trial of the case with the contention that the commission acted arbitrarily, and without evidence as to the right of Thomas Atkins to be enrolled, we would now be foreclosed with respect to that contention by reason of the decision in the Barney Thlocco case; but we were not unmindful of the view which this court took of the issue of fact raised in that case, and, in point of fact, we proceeded to try this case upon the following propositions, presented by our pleadings, namely:

"'First. That the enrolled and allotted Thomas Atkins was, and is, a distinctly mythical person; consequently, that the Dawes Commission was without jurisdiction to enroll that name or allot lands to him, and the patents were, and are, utterly void. This proposition is presented in the amended bill of complaint as the third ground for the relief prayed for, and calls for no impeachment of the judgment of the commission, save only in so far as proof of the utter nonexistence of the enrollee and patentee operates absolutely to impeach and destroy that judgment and the resultant patents. (See paragraph VII of the amended bill of complaint.)

"'Second. That the commission, as a basis for the enrollment of the name of Thomas Atkins, used, as absolutely necessary, hence, necessarily material evidence upon the question of the citizenship of Thomas Atkins, the 1895 pay roll containing his name, and that that pay roll was false and fraudulent in so far as it contained that name; that the defendant, Minnie Atkins, caused it to contain said name, well knowing that it had no rightful place thereon, and concealed the fact that it represented a mythical person; that her concealment of that fact has continued from that day to this, and she is now attempting to reap the benefits growing out of the Dawes
5008 commission enrollment, which resulted from the ex parte proceeding wherein said false tribal roll was used as aforesaid. (See paragraph V of the amended bill of complaint.)'

"In view of this admission and the evidence offered by the Government itself, we start with the established proposition that the Government has failed to discharge the burden which rested upon it to establish by the evidence that the commission acted arbitrarily and without evidence as to the right of Thomas Atkins to be enrolled, which involved, as we have seen, the questions of his Creek blood, his residence in the tribe, and his having lived up to and including April 1, 1899. Therefore, unless the action of the commission may be attacked in this proceeding on the theory that notwithstanding its findings Thomas Atkins was in fact a myth and

never existed, and that Minnie Atkins in having him placed upon the 1895 Creek roll as a person then in being, and permitting the commission to consider said roll as evidence of his existence and Creek citizenship, without apprising the commission of its falsity, practiced such fraud upon the commission as renders its judgment voidable in this proceeding; or on the theory alone that Thomas Atkins was in fact a myth, and that therefore, notwithstanding its attempted action, the commission was without jurisdiction to enroll his name or allot land in his name and that hence its action is a nullity, the title to the land still remaining in the Creek Nation and pretended patents being clouds thereon, the objection to the introduction of evidence was well taken and as a matter of law the plaintiff must fail in this case. Its right to make this proof the plaintiff bases upon these three propositions as appears from the brief.

I.

"'The proceedings before the commission were ex parte.

II.

"'The particular charge of fraud in this case, if sustained, entitles the complainant to the relief prayed for.

III.

"'A patent to a fictitious person is, in legal effect, no more than a declaration that the Government thereby conveys the title to no one, and the judgment on which it is based is a nullity for want of jurisdiction in the Dawes Commission to render it.'"

5009 It thus appears that in view of the decision of the Supreme Court in United States v. Wildcat et al., supra, complainant abandoned its contention that the commission acted arbitrarily, and without evidence as to the right of Thomas Atkins to be enrolled, and proceeded to try its case thereafter upon the propositions numbered first and second, as quoted. The court below stated the three propositions upon which the plaintiff based its right to make proof in support of its contention that Thomas Atkins was a myth, and never had any existence in fact. While the court sustained the objection of defendants upon these propositions, it must be remembered, however, that plaintiff had already tendered full proofs upon this issue, to which was addressed the greater part of the testimony making up this record of approximately five thousand pages.

But still further, in their brief in this court, counsel for the Government say:

"We do not now urge that Minnie (Folk nee Atkins) committed any fraud upon the tribe because we are unable to show that she

caused the name Thomas to be placed upon the roll, nor do we believe she drew any money for the fictitious being represented by that name. Nor can she be charged with any fraud upon the Dawes Commission except the fraud of omission to inform that body of the nonexistence of Thomas.

"We shall not discuss the fraud allegations and proof, however, nor the character of the proceedings before the Dawes Commission resulting in this enrollment. We believe the question whether fraud was practiced in the enrollment proceedings is immaterial here."

It will thus be seen that counsel for the Government, both in brief and argument, in substance abandon all other contentions and rely upon the single proposition that "a patent to a fictitious person is, in legal effect, no more than a declaration that the Government thereby conveys the title to no one, and the judgment on which it is based is a nullity for want of jurisdiction in the Dawes Commission to render it." And, as incident thereto, that Thomas Atkins was, in fact, a mythical person. We say this because there can no longer be reasonable insistence that the proceedings before the Dawes Commission were ex parte. Those proceedings were adver-
5010 sary in their nature, and the adjudication of the commission of who should be enrolled as citizens and freedmen of the Five Civilized Tribes, what land should be allotted each and in what way, and of every issue of law and fact necessary for it to determine, in order to decide such questions, is conclusive and impervious to collateral attack. Malone v. Alderdice, C. C. A., 212 Fed., 668; Folk v. United States, C. C. A., 233 Fed., 177; United States v. Wildcat et al., 244 U. S., 111.

The allegation of fraud upon the tribe is abandoned, and it is conceded in brief and argument that Minnie Folk can not be charged with any fraud upon the commission "except the fraud of omission to inform that body of the nonexistence of Thomas." Such fraud, even though it existed, falls clearly within the rule announced in United States v. Throckmorton, 98 U. S., 61, and Vance v. Burbank, 101 U. S., 514. In the latter case it was said: "It has also been settled that the fraud in respect to which relief will be granted in this class of cases must be such as has been practiced on the unsuccessful party, and prevented him from exhibiting his case fully to the department, so that it may properly be said there has never been a decision in a real contest about the subject matter of inquiry. False testimony or forged documents even are not enough, if the disputed matter has actually been presented to or considered by the appropriate tribunal."

It devolved upon the commission, in the proceeding, to which the citizen claiming the right to enrollment and allotment on the one side and the Creek Nation on the other side were adverse parties in contemplation of law, to determine whether Thomas Atkins was "living on the first day of April, 1899, or born to citizens so entitled

to enrollment up to and including the first day of July, 1900, and then living." This necessarily involved the question of whether he was a real or mythical person, since, of course, no mythical person could have been "living" on the dates mentioned. When the Dawes Commission determined that he was such a living person and entitled to enrollment, it decided the very crucial question involved in this proceeding—an issue of law and fact which was indispensable and necessary for it to determine in order to decide the matters exclusively confided to it and upon which its judgment is made final. As a result of the process of elimination, disclosed by the record as hereinabove stated, of some of the original propositions advanced by the Government, and of the conclusive determination of others adversely to the Government by the authoritative decisions of the Supreme Court of the United States and of this court, practically the only remaining question with which we have to deal is whether the court below erred in sustaining the contention of the defendant Minnie Folk, formerly Minnie Atkins, that the United States should not be permitted to retry the issue of whether her alleged son Thomas Atkins was living on April 1, 1899, on the ground that he was a fictitious or mythical person, and as an incident thereto, whether, under the facts disclosed by this record, that error, if it be one, was substantially prejudicial.

5011

The Government, to sustain its proposition, relies almost entirely upon the decision of the Supreme Court of the United States in Sampeyreac v. United States, 7 Peters, 222. This case was brought under a special act of Congress, passed May 8, 1830 (4 U. S. Stat., 399), for the express purpose of enabling the court in Arkansas, having cognizance of claims under a former act, "to proceed by bills of review, filed, or to be filed, in the said court, on the part of the United States, for the purpose of revising all or any of the decrees of the said court in cases wherein it shall appear to the said court, or be alleged in such bills of review, that the jurisdiction of the same was assumed, in any case, on any forged warrant, concession, grant, order of survey, or other evidence of title." In the absence of this enabling act of 1830, and the authority thereby conferred, it was evidently believed that jurisdiction for the purpose stated was wanting. In such case, the scope of the act must necessarily be confined to the subject matter recited and the grounds for relief stated therein. In the Sampeyreac case forgery was present and was the foundation of the action. Of course, closely interwoven with this was the further conceded fact, and not, as here, the contested fact, that Sampeyreac was a fictitious person, and, consequently, all deeds or other muniments of title purporting to emanate from him must, in the nature of things, have been forgeries. Conceding the express right to review and revise on the ground of forgery, the evidence thereof, including the evidence of the nonexistence of a grantor and litigant, would be clearly admissible. And the act

in question conferred not only the right to review decrees, but the right to relitigate issues involved in such decrees. But, if the general rules governing the jurisdiction of a court of equity,
5012 in the absence of such express legislation, forbid both the review of such decrees and the relitigation of such issues in a collateral proceeding, then, clearly, the evidence offered in support thereof must be denied.

In United States v. Flint, case No. 15,121, 25 Federal Cases, 1107, before Field, circuit justice; Sawyer, circuit judge; and Hoffman, district judge, the Sampeyreac case is thus distinguished from normal procedure under recognized equity rules:

"In the case of Sampeyreac, 7 Peters, 222, which is the only reported case where a reexamination was made, it was done by virtue of a special act of Congress, which authorized the proceeding, not before the ordinary tribunals, but by bill of review in the special tribunal upon which the original jurisdiction over the cause had been conferred. Whether or not by virtue of that jurisdiction it might have entertained a bill of review to set aside its own decree, the Supreme Court does not decide. An act of Congress seems to have been deemed necessary to confer the authority. But it is nowhere intimated that any court of equity powers, but upon which no authority to pass upon the validity of claims of that description had been conferred, could have entertained such a bill, or in any other form have reexamined the questions finally decided by the special tribunal. * * *

"It is not necessary to assert that, where a fraudulent title has been confirmed, the United States is entirely without remedy, nor that the political department of the Government may not, if it sees fit, invest the courts with authority to reexamine the questions which, as the law now stands, remain finally decided in these cases. But, until Congress has so expressed its will and conferred the requisite authority, it may confidently be affirmed that the ordinary tribunals are without jurisdiction."

In the case at bar the existence of the allottee, Thomas Atkins, was a litigated question before the Dawes Commission, a quasi-judicial tribunal established by act of Congress for the explicit purpose of quieting these questions of Indian title, whose decisions, by the express provisions of that act, were made final, conclusive, and impervious to collateral attack either by the Creek Nation, the United
5013 States, or any other party in interest. The judgment of the commission established beyond peradventure that Atkins was not a fictitious person, but was alive April 1, 1899, and was, therefore, legally enrolled. It matters not that the proceedings of the commission were less formal than in the regular law courts of the country, nor that it necessarily must have made mistakes in the discharge of its duties. The principle involved remains unchanged. The rule applicable to the setting aside of decrees for fraud of the nature here

presented has been well established by many pronouncements of the Supreme Court, and of this court. United States v. Throckmorton, 98 U. S., 61; Vance v. Burbank, 101 U. S., 514; United States v. Wildcat et al., 244 U. S., 111; Malone v. Alderdice et al., C. C. A., 212 Fed., 668. It is a rule founded upon reason and substance. It is essential to a seemly end to litigation. It involves the very notion of repose and quietude that is embraced within the purpose of the act of Congress making the decision of the Dawes Commission final, conclusive, and impervious to collateral attack except under the circumstances and conditions prescribed and recognized in the practice and procedure in equity. It follows that the action of the court below in sustaining the objection to the Government's offer of proof in support of its contention that Thomas Atkins was a fictitious person was right, and must be sustained.

But, independently of this conclusion, it would seem that upon the merits the Government can fare no better, and this involves Nancy Atkins, appellant in case No. 5425. This record of approximately five thousand pages presents an "irrepressible conflict," and if any appellate court is ever concluded by the findings of a chancellor upon facts sufficiently substantial to support them, and such is and should be the uniform rule of decision, this case falls peculiarly within that rule. It may be that mistakes have been made. Taking into consideration the environment, subject matter, and personnel of the witnesses and parties involved, it may be conceded that in this class of cases exact justice is difficult of attainment, but I apprehend Congress was fully aware of this situation, as affecting these Indian titles, when it conferred such complete authority upon the Dawes Commission and clothed its decisions with such presumption of verity. As has been stated, the Government produced its evidence fully before the court. The defendants introduced testimony without
5014 let or hindrance. The resident judge, admirably equipped, by training and experience, to discharge the onerous duty which devolved upon him, patiently and conscientiously heard and considered the evidence produced in the course of a hearing which consumed more than a month. He saw most of the witnesses upon the stand and had opportunity to note their demeanor and to weigh their testimony. His findings are amply sustained by the record, and should not be set aside by this court. To attempt a comprehensive review of the evidence contained in this extended record would be impracticable and would serve no useful purpose. It is sufficient that we have reached the same conclusions as did the trial judge upon the issues of fact. It results that the decree should be sustained and affirmed. It is so ordered.

Filed November 13, 1920.

5015 *Decree in causes Nos. 5420 and 5425.*

United States Circuit Court of Appeals, Eighth Circuit.

September term, 1920.—Monday, November 22, 1920.

UNITED STATES OF AMERICA, APPELLANT,

vs.

MINNIE ATKINS; HENRY CARTER; CHARLES M. BALL; Nancy Atkins; Micco T. Harjo, as guardian of Nancy Atkins, an incompetent; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Robert L. Rutherford; James A. Ferguson; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George C. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman. — No. 5420.

and

NANCY ATKINS; H. A. RIDGWAY, GUARDIAN OF SAID NANCY Atkins, an incompetent; Robert L. Rutherford and A. L. Ferguson, administrator of the estate of James A. Ferguson, deceased, appellants,

vs.

UNITED STATES OF AMERICA; MINNIE ATKINS; HENRY Carter; Charles M. Ball; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a
5016 minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George G. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman. — No. 5425.

Appeals from the District Court of the United States for the Eastern District of Oklahoma.

These causes came on to be heard on the transcript of the record from the District Court of the United States for the Eastern District of Oklahoma, and were argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said district court in these causes be, and the same is hereby, affirmed without costs to either party in this court.

November 22, 1920.

Motion of appellees in causes Nos. 5420 and 5425 to discharge bond.

Now come the appellees in the above causes and show to the court that on the original hearing of this cause before Judge R. E. Campbell, of the United States Court for the Eastern District of Oklahoma, an application was made for the appointment of a receiver of the property in controversy and Judge Campbell allowed said application and appointed a receiver of said property.

5017 Appellees show to the court that they prosecuted an appeal to this court from the judgment of Judge Campbell appointing a receiver and this court, in an opinion handed down on the 5th day of June, 1916, reversed the judgment of Judge Campbell and held that there was, under the facts alleged and proved in said cause, no warrant or ground for the appointment of a receiver. The appellees were in possession of this real estate involved in this cause and this court held that there was no ground for taking the possession of this property from appellees and putting it in the hands of a receiver and the court discharged the receiver, by its order reversing the judgment of Judge Campbell. It appears from the record, however, that although there was no legal warrant for the appointment of a receiver, the attorneys for the present appellees suggested to this honorable court that it would give a bond to protect the adverse litigants in this cause pending this litigation. This honorable court accepted the bond in the sum of $900,000.00 signed by Page and his sureties, which bond is hereto attached and made an exhibit to this motion.

Appellees say that they were under no obligation to give said bond; that it was a pure voluntary obligation and could not have been required by this court in view of the judgment which it had rendered reversing the judgment of Judge Campbell appointing a receiver.

Your petitioners respectfully show that after this court had reversed the order of Judge Campbell appointing a receiver herein the case went back to the court below to be tried on its merits. A trial was had, which resulted in a judgment for the appellees both upon the law and facts. An appeal was prosecuted to this honorable court seeking to reverse the judgment of the court below. On the 22nd day of November, 1920, this honorable court handed down its opinion, sustaining in all things, both as to the law and the facts, the judgment of the court below.

5018 Appellees respectfully show to the court that for more than four years they have been compelled to pay a premium for said

bond in the sum of $9,000.00 a year, amounting to nearl $40,000.00; that this amount of money so paid out by appellees for said bond will be entirely lost to appellees and can never be recovered by them; that the only theory on which said bond could have been accepted by this court was that it was taken in lieu of a receiver, but inasmuch as a receiver could not have been lawfully appointed by the court below there is no consideration for this bond and appellees say that it ought not to be continued further. Appellees do not seek to escape the obligation of this bond, if any, up to this hour, but appellees say that a continuance of this bond is entailing a great hardship on appellees.

Petitioners further say that when they gave the bond aforesaid they were required by the surety company to leave on deposit in the banks of Tulsa a great proportion of the money derived from the sale of oil taken from the property in controversy, and appellees have been unable to use or appropriate said money.

Petitioners further say that appellees were required by said bonding company to put up other collaterals amounting to hundreds of thousands of dollars in order to get said bond.

Petitioners say that they ought not to be required to carry this burden further; that three courts have decided this cause in favor of petitioners—the United States Court for the Eastern District of Oklahoma and the Circuit Court of Appeals for the Eighth Circuit twice.

Petitioners further show that the said Charles Page, principal on said bond, is thoroughly solvent and able to meet any judgment that may be rendered in this cause.

5019 Wherefore petitioners say that inasmuch as there was no legal obligation to enter into this bond and inasmuch as the bond has served its purpose, petitioner ought not to be further required to pay this immense premium, which will be wholly lost to them, to retain possession of their own property which has been decreed to them by the distinct judgments of three Federal courts.

Wherefore petitioner prays that as to the future this bond be discharged and the said Page and his sureties be released therefrom and that this honorable court make an order that said bond be so discharged.

C. B. STUART,
Solicitor for Petitioners.

United States Circuit Court of Appeals, Eighth Circuit.

MINNIE FOLK (NEE ATKINS) ET AL., Appellants, *vs.* UNITED STATES OF AMERICA ET AL., Appellees.	No. 4464. Indemnity bond.

Know all men by these presents, that we, Charles Page, of Tulsa, Oklahoma, as principal, and United States Fidelity & Guaranty

Company, of Baltimore, Maryland, a corporation, as surety, are held and firmly bound unto the above named appellees, in the full and just sum of nine hundred thousand ($900,000.00) dollars,
5020 to be paid to the said appellees, or whichever of the parties to this suit that shall be finally adjudged to be entitled thereto, for the payment of which sum, well and truly to be made, we bind ourselves, and each of us, our, and each of our executors, administrators, successors, or assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this 25th day of July, A. D. 1916.

Whereas the above-named Charles Page has heretofore joined in prosecuting an appeal to the United States Circuit Court of Appeals for the Eighth Circuit to reverse an interlocutory order and decree of the United States District Court for the Eastern District of Oklahoma appointing a receiver and granting an injunction, made and entered by said court on the 8th day of March, 1915; and

Whereas, on said appeal, the said United States Circuit Court of Appeals for the Eighth Circuit, on the 5th day of June, 1916, made and entered its written opinion and decision reversing and setting aside said interlocutory order appointing a receiver and granting an injunction, to become, and be, effective upon the filing of this bond in said appellate court, within sixty days from and after the filing of said opinion and decision; and

Whereas the said Charles Page, as lessee of Minnie Folk (nee Atkins), is in the possession of the property in controversy and operating the same for oil and gas; and is now, and since the 8th day of March, 1915, has been receiving the proceeds derived from said operations; and is, and has been, charged with the costs and expenses of said operations: Now therefore,

The conditions of this obligation are such that:

If the said Charles Page shall account for and pay over to those parties to this suit that shall be finally adjudged to be entitled
5021 thereto, the profits that have been and shall be derived by him from the land in controversy between March 8, 1915, the date when the receiver was appointed, and the final determination of this suit, to file with the clerk of the United States District Court for the Eastern District of Oklahoma a verified account of the operation of the property, showing generally the expense, the proceeds, and the profits thereof between March 8th, 1915, and May 1, 1916, on or before August 1, 1916, to file on or before the 25th of each month, commencing June 25, 1915, such an account of the operation thereof during the preceding month, to pay to the parties ultimately adjudged entitled thereto any damages resulting to them from the negligence or mismanagement of the property and to abide by and perform the further orders of this court and of the court below in the premises, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

CHAS. PAGE. [SEAL.]
United States Fidelity & Guaranty Co. [SEAL.]
By H. B. MARTIN,
Attorney in Fact.

The within bond approved as to the above surety the United States Fidelity & Guaranty Company, this 26th day of July, 1916.
RALPH E. CAMPBELL, *Judge.*

The above and foregoing bond is hereby approved this 31st day of July, 1916, and ordered to be filed in the clerk's office of this court.
WALTER H. SANBORN,
Presiding Judge of the United States Circuit Court of Appeals, Eighth Circuit.

(Endorsed:) Filed in clerk's office of the U. S. Circuit Court of Appeals, Aug. 4, 1916.

5022 (Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 13, 1921.

Acceptance of service of notice and motion to discharge bond in causes Nos. 5420 and 5425.

UNITED STATES OF AMERICA, APPELLANT, *vs.* MINNIE ATKINS ET AL.	No. 5420.
NANCY ATKINS ET AL., APPELLANTS, *vs.* UNITED STATES OF AMERICA ET AL.	No. 5425.

Notice.

To Messrs. Hill & Fitzhugh, attorneys for Nancy Atkins, & *Malcom* Rosser:

You are hereby notified that the appellees in the above-entitled causes have filed with the United States Circuit Court of Appeals for the Eighth Circuit their motion to discharge the bond entered into by Charles Page on the twenty-fifth day of July, 1916, said bond being in the sum of $900,000.00 and filed in the Circuit Court of Appeals for the Eighth Circuit August 4, 1916, and you are hereby notified that appellees will ask the honorable court of appeals to hear said motion on the 25th day of January, 1921, or as soon thereafter as the same can be heard.

5023
C. B. STUART,
Atty, for Appellees.

I hereby accept service of the foregoing notice and also copy of motion referred to therein, this 15th day of January, A. D. 1921.
MALCOLM E. ROSSER.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 17, 1921.

Acceptance of service of notice and motion to discharge bond in causes Nos. 5420 and 5425.

Notice.

To D. H. Linebaugh, attorney for appellant, the United States of America in the above-entitled causes:

You are hereby notified that the appellees in the above-entitled causes have filed with the United States Circuit Court of Appeals for the Eighth Circuit their motion to discharge the bond entered into by Charles Page on the twenty-fifth day of July, 1916, said bond being in the sum of $900,000.00 and filed in the Circuit Court of Appeals for the Eighth Circuit August 4, 1916, and you are hereby notified that appellees will ask the honorable Court of Appeals to hear said motion on the 25th day of January, 1921, or as soon thereafter as the same can be heard.

C. B. STUART,
Atty. for Appellees.

5024 Service of above notice accepted this 17" day of Jan'y, 1921.

D. H. LINEBAUGH,
Sp. Asst. Atty. Gen'l.

* * * * * * *

[Copy of motion to discharge bond omitted at this point for the reason that the same heretofore appears in the record.]

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 22, 1921.

Protest in cause No. 5425 against discharge of bond.

NANCY ATKINS ET AL., APPELLANTS,
v.
CHARLES PAGE, MINNIE FOLK ET AL., APPELLEES. } No. 5425.

In the matter of the application of Charles Page for release of bond in the above-entitled case.

Comes Arthur L. Ferguson as executor and trustee of the estate of James A. Ferguson, deceased, and states that he is a party to the above-entitled action, being one of the appellants therein. He further states that the bond given by the defendant, Charles Page, in this action amounts to only the sum of nine hundred thou-
5025 sand dollars ($900,000). He further says that according to reports made by Charles Page to the United States District Court at Muskogee in this case the lease had produced in excess of $1,800,000.00 up to December 31, 1918, which is more than two years ago; that the lease at that time was producing in excess of $30,000.00 per month and since said time oil has advanced in price; that said

lease up to the present time has doubtless produced in excess of $2,400,000.00, which has been collected by the appellee, Page, under his bond given in this action.

He further states that he as such executor and trustee is now preparing an appeal from the decision in this honorable court to the United States Supreme Court in the above-entitled action, and that such appeal will be perfected as soon as the proper records can be lodged in the Supreme Court of the United States.

He is further informed and believes that the United States of America, who is a party to the record in this case, also intends to perfect its appeal and that same will be perfected in due course of time. He further says that the appellee, Charles Page, has now in his hands approximately $1,500,000.00 in excess of his bond in this case. He further alleges that the bond given by Page should remain in full force and effect until this case can be disposed of in the United States Supreme Court.

Wherefore he prays that the appellee's application for discharge of the bond be denied.

ARTHUR L. FERGUSON,
As Executor and Trustee.

Subscribed & sworn to before me Jan. 24, 1921.

[SEAL.] CECIL R. WARNER,
Notary Public.

My commission exps. 3–18–23.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 25, 1921.

5026 *Order granting leave to substitute $50,000.00 bond in lieu of $900,000.00 bond, etc., in causes Nos. 5420 and 5425.*

December term, 1920.—Tuesday, January 25, 1921.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL. } No. 5420.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL. } No. 5425.

Appeals from the District Court of the United States for the Eastern District of Oklahoma.

Came on for hearing the motion of Charles Page, Esq., a party to this cause, for an order discharging as to the future his bond in the sum of $900,000.00 on which the United States Fidelity & Guaranty Company is surety, for the reasons stated in the motion, Mr. C. B. Stuart appearing for said Charles Page; Mr. D. H. Linebaugh, special assistant to the Attorney General, appearing in behalf of the United States of America; and Mr. Henry L. Fitzhugh appearing for Nancy Atkins.

Sufficient cause therefor appearing to the court, it is ordered that in lieu of the operation of the bond in the amount of $900,000.00 as to future acts and transactions and duties in respect thereof,
5027 the said Charles Page and said Fidelity & Guaranty Company as surety may substitute a like bond in the sum of $50,000.00, upon the express condition, however, that all obligations which have arisen or may arise under said $900,000.00 bond or any preceding bond of similar purpose shall, as to matters during the periods they were in force, respectively, remain and continue in full force, wholly unaffected and unimpaired by this order or anything done hereunder.

January 25, 1921.

5028 *Petition of United States of America for an order allowing appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs.
NANCY ATKINS ET AL., APPELLEES.
} No. 5420.

To the honorable judges of the Circuit Court of Appeals for the Eighth Judicial Circuit:

Now comes the appellant, United States of America, by its undersigned solicitors, and complains that in the record and proceedings and also in the rendition of the decree of the United States Circuit Court of Appeals for the Eighth Circuit, sitting at St. Louis, in the State of Missouri, in the above styled and numbered cause on the 22nd day of November, 1920, affirming the decree of the United States District Court for the Eastern District of Oklahoma in said cause, manifest error has intervened to the great damage of the petitioner; that the jurisdiction of the Circuit Court of Appeals was dependent on the fact that the United States of America was the party appellant in said action suing for and on behalf of the Creek Nation, a dependent tribe of Indians, and that the action was based on Federal questions otherwise cognizable by a Federal court; and that the amount involved herein exceeds the sum of $1,000,000.00 besides costs, and this is not a case in which the jurisdiction of the Circuit Court of Appeals is made final.

5029 Wherefore, petitioner prays for the allowance of an appeal to the end that the cause may be transmitted to the Supreme Court of the United States, and petitioner further prays for a supersedeas of said judgment and such other process as is required to perfect the appeal prayed for, to the end that the error therein may be corrected.

D. H. LINEBAUGH,
PAUL PINSON,
Special Assistants to the Attorney General,
Solicitors for Appellant.

Appeal without supersedeas allowed without bond, the appellant being United States of America.

This 9th day of February, 1921.

WALTER H. SANBORN,
U. S. Circuit Judge, Eighth Circuit Court of Appeals.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 9, 1921.

Assignment of errors of United States of America on Appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT, *vs.* MINNIE ATKINS ET AL., APPELLEE.	No. 5420.

5030 Now, on this 9th day of February, 1921, comes the appellant, United States of America, by its undersigned solicitors, and says that the decree entered in the above-entitled cause on the 22nd day of November, 1920, is erroneous and unjust to the appellant by reason of the following errors which the appellant assigns, and upon which it will rely in its appeal from said decree for a reversal of the same.

1. The court erred in affirming the decree of the District Court for the Eastern District of Oklahoma entered on the 29th day of May, 1918, and in decreeing that, contrary to the facts set forth in the amended bill of complaint and established by the record evidence, the defendant Minnie Folk, nee Atkins, and her heirs are the owners and entitled to the possession of the land in controversy, subject only to the right, title, and interest of the defendant, Charles Page and Edward C. Hanford claiming through her.

2. The court erred in holding and deciding and in affirming the action of the district court in holding and deciding that the amended bill of complaint of the appellant herein stated no cause of action.

3. The court erred in holding and deciding that the appellant's amended bill of complaint should be dismissed as being without equity, and in sustaining the action of the trial court in so holding and deciding.

4. The court erred in holding and deciding that the act of the Commission to the Five Civilized Tribes in enrolling the name of
5031 Thomas Atkins and allotting land in said name precludes the appellant from offering evidence that as a matter of fact no such person as Thomas Atkins ever existed and that the name so enrolled represented a mythical or fictitious person.

5. The court erred in holding and deciding and in affirming the action of the trial court in holding and deciding that the judgment

of the Commission to the Five Civilized Tribes could operate to vest title in a fictitious person.

6. The court erred in holding and deciding that patents issued in the name of a fictitious person conveyed the title out of the Creek Nation, and in affirming the action of the trial court in so holding and decreeing.

7. The court erred in not holding and decreeing that the patents and deeds to the land in controversy made in the name of Thomas Atkins were void and conveyed no title in that it was charged by the bill and established by the evidence that the said name represented no person who ever had any existence.

8. The court erred in making any findings of fact as against the appellant after dismissing appellant's bill on motion of the appellees.

9. The court erred in finding as a matter of fact from the evidence considered that Thomas Atkins in fact existed as the son of Minnie Atkins, or that she ever gave birth to a child of that name.

5032 10. The court erred as a matter of fact in concluding and deciding that the name Thomas Atkins as enrolled by the Commission to the Five Civilized Tribes as a member of the Creek Tribe of Indians represented any person who ever existed.

11. The court erred in affirming and sustaining the action of the trial court in refusing to cancel the patents issued in the name of Thomas Atkins by the Commission to the Five Civilized Tribes and conveying to the said Thomas Atkins the southwest quarter of the northeast quarter and lot two of section 5; and the southwest quarter of the northwest quarter and lot four of section 4, township 18 north, range 7 east of the Indian base and meridian.

12. The court erred in finding and deciding that the Commission to the Five Civilized Tribes in enrolling the name of Thomas Atkins and in patenting land in such name conducted a trial of an adversary nature and that the judgment of enrollment and allotment is not subject to attack for fraud intrinsic to the proceedings themselves.

13. The court erred in refusing to consider on behalf of the appellant the evidence offered by the appellant showing that the name Thomas Atkins on the approved roll of Creek Indians opposite No. 7913 represented a fictitious and mythical person and no person that ever existed.

14. The court erred in that after dismissing the bill of com-
5033 plaint it considered as between the said Minnie Folk, nee Atkins, and her grantees on the one hand, and Nancy Atkins and her grantees on the other, the evidence offered by appellant to establish that Thomas Atkins was a myth.

15. The court erred in not ordering, adjudging, and decreeing that the appellant have the relief prayed for in its bill of complaint as amended.

Wherefore, appellant prays that the said decree be reversed and that this cause be remanded with instructions that a decree be en-

tered in favor of the appellant, or that such further and appropriate action may be taken therein as shall be just and equitable.

D. H. LINEBAUGH,
PAUL PINSON,
Special Assistants to the Attorney General,
Solicitors for Appellant.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 9, 1921.

5034 In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEE. } No. 5420.

Citation.

United States of America to Minnie Atkins; Henry Carter; Charles M. Ball; Nancy Atkins, Micco T. Harjo, as guardian of Nancy Atkins, an incompetent; Charles Harrison; Thomas Harris; Kahookah Harris; Harvey Harrison, a minor; A. J. Burchett, as guardian of Harvey Harrison, a minor; Minnie Hall, nee Atkins; Martin Rowe; Harry Harrison; Minnie Folk, nee Atkins; Harry B. Folk; Edward C. Hanford; Robert L. Rutherford; James A. Ferguson; Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Gypsy Oil Company, a corporation; Gem Oil Company, a corporation; Charles Page; H. U. Bartlett; A. A. Hammer; William S. Murphy; Wilbur M. Morris; W. W. Walton; Ellis H. Hammett; Rufus B. Cobb; George C. Conrod; John R. Fields; James M. Brogan; Thomas Gilcrease; Robert Wilson; S. D. Shirk; H. E. Whitehead; T. S. Hurst; F. F. Betzer; R. A. Josey; Thomas Atkins; J. Truman Nixon; and C. J. Wrightsman, administrator of the estate of Minnie Folk, nee Atkins, deceased, greeting:

You are hereby notified that in a certain cause in the United States Circuit Court of Appeals for the Eighth Circuit, being No. 5420, wherein the United States of America is appellant and you and each of you are appellees, an appeal has been allowed the appellant therein to the Supreme Court of the United States.

5035 You are therefore hereby cited and admonished to be and appear in said Supreme Court of the United States at Washington, D. C., thirty days after the date of this citation to show cause if any there be why the order and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

Witness the Honorable Walter H. Sanborn, judge of the United States Circuit Court of Appeals for the Eighth Circuit, this 9th day of February, 1921.

WALTER H. SANBORN,
Judge of the Circuit Court of Appeals for the Eighth Circuit.

The undersigned solicitors of record for the appellees, Nancy Atkins; Micco T. Harjo, guardian of Nancy Atkins, an incompetent; Robert L. Rutherford; and Arthur L. Ferguson, administrator of James A. Ferguson, hereby acknowledge service of the foregoing citation this 11th day of February, 1921.

N. B. MAXEY,
MALCOLM E. ROSSER,
HENRY L. FITZHUGH,
JOS. M. HILL,
Solicitors of Record for Said Appellees.

5036 The undersigned attorneys of record of the appellee, Henry Carter, do hereby acknowledge service of a true copy of the foregoing citation this ——— day of February, 1921.

———— ————,
Solicitors for Said Appellee.

The undersigned attorneys of record of the appellee, Gypsy Oil Company, do hereby acknowledge service of a true copy of the foregoing citation this ——— day of February, 1921.

———— ————,
———— ————,
———— ————,
Solicitors for Said Appellee.

The undersigned attorneys of record of the appellees, J. Truman Nixon and Thomas Atkins, do hereby acknowledge service of a true copy of the foregoing citation this ——— day of February, 1921.

———— ————,
Solicitor for J. Truman Nixon and Thomas Atkins.

The appellees, Harry B. Folk; Charles Harrison; Harvey Harrison; Edward C. Hanford; Gem Oil Company, a corporation; Charles Page; C. J. Wrightsman; and H. B. Folk, executor of the estate of Minnie Folk, deceased, hereby acknowledge service of the within and foregoing citation and the delivery to them of a true and correct copy thereof on this 18th day of February, 1921.

C. B. STUART,
Solicitor for Said Appellees.

(Endorsed): In the United States Circuit Court of Appeals, for the Eighth Circuit. United States of America, appellant, *vs.* Minnie Atkins et al., appellee. No. 5420. Citation on appeal to Supreme Court, U. S. Filed Feb. 24, 1921. E. E. Koch clerk.

5037 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES. } No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, demanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, Gypsy Oil Company, appellee, does hereby acknowledge service of the said citation and enter its appearance in the Supreme Court of the United States in pursuance thereto this 16th day of February, 1921.

GYPSY OIL COMPANY,
By JAMES B. DIGGS,
Its Solicitor.

(Endorsed:) No. 5420. United States of America, appellant, v. Minnie Atkins et al. Acceptance of service of citation by Gypsy Oil Co. Filed Feb. 24, 1921. E. E. Koch, clerk.

5038 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEE. } No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, demanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, J. Truman Nixon and Thomas Atkins, do hereby acknowledge service of the said citation and enter their appearance in the Supreme Court of the United States in pursuance thereto this 16th day of February, 1921.

J. TRUMAN NIXON,
THOMAS ATKINS,
By J. TRUMAN NIXON,
Solicitor.

(Endorsed:) No. 5420. United States of America, appellant, v. Minnie Atkins et al. Acceptance of service of citation by J. Truman Nixon and Thomas Atkins. Filed Feb. 24, 1921. E. E. Koch, clerk.

5039 In the Supreme Court of the United States.

UNITED STATES OF AMERICA, APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES. | No. 5420.

Acceptance of service of citation.

Whereas the United States of America obtained order allowing appeal from the judgment of the Circuit Court of Appeals rendered in the above-entitled cause on the 22nd day of November, 1920; and

Whereas citation was issued on February 9, 1921, commanding the appellees to appear in the Supreme Court of the United States within thirty days from said date:

Now, therefore, the undersigned, Henry Carter, appellee, does hereby acknowledge service of the said citation and enter his appearance in the Supreme Court of the United States in pursuance thereto this 24th day of February, 1921.

HENRY CARTER,
By B. B. BEO REUDY,
Solicitor for Said Appellee.

(Endorsed:) No. 5420. United States of America, appellant, *vs.* Minnie Atkins et al. Acceptance of service of citation by Henry Carter. Filed, Feb. 28, 1921. E. E. Koch, clerk.

5040 *Petition of Nancy Atkins et al. for and order allowing appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES. | 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. | 5425.

Come Nancy Atkins and H. A. Ridgway, guardian of Nancy Atkins, and Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased, and Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, and J. B. White, feeling themselves aggrieved by the order made and entered in this court on the 22nd day of November, 1920, affirming the decree of the United States District Court for the Eastern District of Oklahoma in the above-styled cause, and allege manifest error has intervened to the great damage of these petitioners as is set forth in their assignment of errors filed herewith; and they allege that the jurisdiction of the

district court was dependent on the fact that the United States of America brought this action, suing for and on behalf of the Creek Nation, a dependent tribe of Indians, and that the action was based on Federal questions, otherwise cognizable by the United States District Court and was not based upon a diversity of citizenship,
5041 and that the amount involved exceeds the sum of one million dollars ($1,000,000) besides costs, and that the decision of the Circuit Court of Appeals in affirming said case was not a decree wherein the jurisdiction of the Circuit Court of Appeals is made final by the act of Congress.

Wherefore petitioner prays for the allowance of an appeal to the end that the case may be transferred to the Supreme Court of the United States and that citation issue as provided by law and that a transcript of the record proceedings and papers upon which said decree was based, duly authenticated, may be sent to the Supreme Court of the United States, and they further pray for further order concerning the security to be required of them to perfect their appeal.

NAPOLEON B. MAXEY,
MALCOLM E. ROSSER,
JOSEPH M. HILL,
HENRY L. FITZHUGH,
Attorneys for Nancy Atkins and Her Lessees.

The foregoing petition is granted and the appeal allowed upon giving bond for costs in the sum of $500, conditioned as required by law.

WALTER H. SANBORN,
Judge of the United States Circuit Court of Appeals for the Eighth Circuit.

February 16, 1921.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

5042 *Assignment of errors of Nancy Atkins et al., on appeal to Supreme Court, U. S.*

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT, *v.* MINNIE ATKINS ET AL., APPELLEES.	5420.
and	
NANCY ATKINS, APPELLANT, *v.* UNITED STATES OF AMERICA ET AL., APPELLEES.	5425.

Now, on this 16th day of February, 1921, comes Nancy Atkins and H. A. Ridgway, guardian of Nancy Atkins, an incompetent; and

Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased; and Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, deceased; and J. B. White, the said Ferguson, Rutherford, and White claiming as lessees under the said Nancy Atkins by the undersigned, their solicitors, and say that the decree entered in the above-entitled cause on the 22nd day of November, 1920, is erroneous and unjust to these appellants by reason of the following errors, which the said appellants assign and upon which it will rely in their appeal from said decree for a reversal of the same by the Supreme Court of the United States.

I.

The Circuit Court of Appeals erred in not reversing this
5043 finding in the opinion of the district judge, to wit:

"The court finds that Minnie Atkins had an illegitimate male child born to her during the early part of June, 1885, at the home of a colored woman, known as Granny Letcher, in the city of Leavenworth, Kansas, and that she named this child Thomas Atkins," which said finding is against the weight of the evidence and supported only by evidence fabricated to fit the description of Thomas Atkins, as the son of Minnie Atkins, in census card #2707.

II.

The Circuit Court of Appeals erred in not finding that Nancy Atkins had an illegitimate male child born to her at Wagoner, Indian Territory, about September, 1890, and named Thomas Atkins, and in reaching the same conclusion as did the trial judge upon the issue of facts in that the trial judge did not determine this issue, deciding that the same was immaterial, whereas the said issue was material and the fact above stated sustained by the weight of the evidence.

III.

The Circuit Court of Appeals erred in not reversing the finding, in the opinion of the district judge, that Minnie Atkins conveyed information to certain of her relatives in the Indian Territory of the fact of the birth of Thomas Atkins, her son, which information was eventually imparted to the tribal authorities compiling the roll, and that the name of Thomas Atkins appearing at #213 of Euchee Town on the 1895 authenticated tribal roll was placed upon said roll by the tribal authorities compiling the roll as the child of Minnie Atkins pursuant to such information in that said finding concurred in by the Circuit Court of Appeals is wholly without any substantial evidence to support it.

5044

IV.

The Circuit Court of Appeals erred in not finding that the son of Nancy Atkins named Thomas Atkins, born at Wagoner, Indian Territory, about September, 1920, was the Thomas Atkins on the Euchee Town list as #213 of the authenticated Creek tribal roll of 1895, in that all the testimony in the record upon the identity of the Thomas Atkins on said roll is to the effect that it represented the son of Nancy Atkins, who was intended to be enrolled by the trial authorities.

V.

The Circuit Court of Appeals erred in not reversing the finding in the opinion of the district judge and concurring therein in that the Thomas Atkins enrolled by the Dawes Commission was in fact the illegitimate child of Minnie Atkins born in the city of Leavenworth, Kansas, in the early part of June, 1885, and is not the child of Nancy Atkins, in that there is no substantial evidence whatever in the record to support said finding of either the district court or the Circuit Court of Appeals.

VI.

The Circuit Court of Appeals erred in not finding that the Thomas Atkins enrolled by the Dawes Commission on May 23, 1901, as #7913 on the Creek roll and described in census card #2707, was the son of Nancy Atkins, in that all the testimony in the record is to the effect that such person was the son of Nancy Atkins and there is no substantial evidence whatsoever that such person was the son of Minnie Atkins.

VII.

The district court erred and the Circuit Court of Appeals erred in affirming its decree without passing upon the admissibility
5045 of the evidence offered on behalf of these appellants by the following witnesses, to wit: J. E. Newberry, James E. Long, Nolan Williams, Jasper N. Skirmpsher, Thomas Brewer, W. A. McElroy, Walter Posey, Frank Ingles, D. W. Best, R. F. Davis, J. D. McLaren, J. W. Ruble, to this effect: "The defendant, Nancy Atkins, offered to prove by each of said witnesses that they lived in the town of Wagoner, Indian Territory, during various years from 1890 to 1900 and that they were personally acquainted with Nancy Atkins, and that they were personally acquainted with a certain boy in said town described by each, called Tommy Atkins; and that it was the general reputation in the town of Wagoner as to who was the mother of said Tommy Atkins; and that it was the general reputation in that community and generally understood in that community that said boy, Tommy Atkins, was the son of Nancy Atkins."

VIII.

The Circuit Court of Appeals erred in not directing that a decree to be entered that the land in controversy was the property of Nancy Atkins as the sole heir of her son, the allottee, Thomas Atkins, and that she and her lessees were entitled to a decree quieting their title thereto.

IX.

The Circuit Court of Appeals erred in affirming the decree of the district court herein.

X.

The Circuit Court of Appeals erred in not deciding that the judgment of the Creek County District Court affirmed by the Supreme Court of Oklahoma finding that Nancy Atkins was the mother of Thomas Atkins, the allottee, and the owner of the land in controversy, and in not finding that said decree was binding upon the defendants in the cross bill herein.

XI.

5046 The Circuit Court of Appeals erred in not finding and decreeing that the *Gen* Oil Company, a corporation, and Charles Page and all others claiming by and through the said Gem Oil Company, and Charles Page were *tresspassers* in taking possession of the land in controversy.

XII.

The Circuit Court of Appeals erred in not sustaining the cross complaint of Nancy Atkins and her lessees and directing the District Court to so decree.

NAPOLEON B. MAXEY,
MALCOLM E. ROSSER,
JOSEPH M. HILL,
HENRY L. FITZHUGH,
Attys. for Nancy Atkins and Her Lessees.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

Bond of Nancy Atkins et al., on Appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES. } 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. } 5425.

5047 Know all men by these presents that we, Arthur L. Ferguson, administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, administrator of the estate of Robert L. Rutherford, deceased; J. B. White, Nancy Atkins, and H. A. Ridgway, guardian of Nancy Atkins, as principals, and Arthur L. Ferguson and Wilson Linn Hemingway as sureties, acknowledge ourselves to be jointly indebted to the United States of America, Minnie Folk, née Atkins, Charles Harrison, Harvey Harrison, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, and Charles Page, and all other appellees in this appeal in the sum of $500.00, conditioned that—

Whereas, on the 22nd day of November, 1920, in the Circuit Court of Appeals of the Eighth Circuit, in a suit therein pending on appeal from the United States District Court for the Eastern District of Oklahoma, numbered and styled as set forth in this caption, a decree was entered affirming the decree of the District Court of the Eastern District of Oklahoma.

Now the said Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, as the administrator of the estate of Robert L. Rutherford; J. B. White, Nancy Atkins, and H. A. Ridgway having obtained an appeal to the Supreme Court of the United States from the said decree of the Circuit Court of Appeals of the Eighth Circuit, and filed a copy *thereon* in the office of the clerk of the court to reverse said decree and a citation directed to the United States of America through D. H. Linebaugh and Paul Pinson, Special Assistants to the Attorney General, and to the said Minnie Folk, née Atkins, Charles Harrison, Harvey Harrison, Harry B. Folk, Edward C. Hanford, Gem Oil Company, a corporation, and Charles Page, citing and admonishing them to be and appear at a session of the said United States Supreme Court to be holden in the city of Washington, ——— days after the date of said citation.

5048 Now if the said Arthur L. Ferguson, as administrator of the estate of James A. Ferguson, deceased; Ardeen Rutherford, as the administrator of the estate of Robert L. Rutherford; J. B. White, Nancy Atkins, and H. A. Ridgway shall prosecute their appeal to effect and answer all costs if they fail to make their appeal good,

then the above obligation to be void, otherwise to remain in full force and effect.

Given under our hands this 16th day of February, 1921.

ARTHUR L. FERGUSON,
Administrator James A. Ferguson Estate.
ARTHUR L. FERGUSON,
J. B. WHITE,
ARDEEN RUTHERFORD,
Admr. Estate R. L. Rutherford.
NANCY ATKINS, and
H. A. RIDGWAY, *Guardian.*
By Jos. M. HILL,
Their Solicitor.
WILSON LINN HEMINGWAY.

Approved this 16th day of February, 1921.

WALTER H. SANBORN,
Senior Circuit Judge.

STATE OF MISSOURI,
City of St. Louis, ss:

I, Wilson Linn Hemingway, one of the sureties upon the bond in the case of United States of America vs. Minnie Atkins et al., and Nancy Atkins et al. vs. United States of America, Nos. 5420 and 5425, do upon oath state that I own property in the State of Missouri subject to execution worth more than one thousand dollars over and above my liabilities and exemptions.

5049

WILSON LINN HEMINGWAY.

Sworn to and subscribed before me this sixteenth day of February A. D. 1921.

[SEAL.]

W. A. BELL,
Notary Public.

My commission expires June 16, 1923.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

Præcipe of Nancy Atkins et al. for transcript on appeal to Supreme Court, U. S.

In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES,
} 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES.
} 5425.

5050

To the clerk of the above-named court:

You are hereby requested that you make a complete and perfect transcript of all of the record and proceedings in the above-en-

titled cause as heard in said court upon which the decree was rendered affirming the decree of the United States District Court for the Eastern District of Oklahoma on November 22, 1920, including therein the stipulation correcting and making an additional record in that case filed on the 7th of January, 1920, and all subsequent proceedings, and in addition thereto you are requested to incorporate in the record the following, to wit:

First. The petition for appeal, filed on February 16, 1921, by the appellants Nancy Atkins, H. A. Ridgway, Arthur L. Ferguson, Ardeen Rutherford, and J. B. White.

Second. The assignment of errors filed by said petitioners on February 16, 1921.

Third. The order allowing the appeal of said petitioners on February 16, 1921.

Fourth. Bond for costs, filed by said petitioners on February 16, 1921.

Fifth. The citation sued out by said petitioners, together with waiver, or service thereon.

NAPOLEON B. MAXEY,
MALCOLM E. ROSSER,
JOSEPH M. HILL,
HENRY L. FITZHUGH,
Attys. for Nancy Atkins and Her Lessees.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Feb. 16, 1921.

5051 In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA ET AL., APPELLANT,
vs.
MINNIE ATKINS ET AL., APPELLEES. } No. 5420.

NANCY ATKINS ET AL., APPELLANTS,
vs.
UNITED STATES OF AMERICA ET AL., APPELLEES. } No. 5425.

Whereas in the above-entitled cause, Nancy Atkins et al., through her attorneys, served notice by way of citation in appeal on me, as attorney of record of Charles Page et al. in the above-entitled cause, notifying me that said case had been appealed to the Supreme Court of the United States; and whereas said citation in appeal was sent to me for acceptance of service and the same has been misplaced or lost:

Now, therefore, I hereby accept service of said citation in appeal and agree that this acceptance may be filed.

C. B. STUART,
Attorney for Minnie Atkins, Chas. Page, et al.

(Endorsed:) No. 5420. United States of America et al., appellants, vs. Minnie Atkins et al. No. 5425. Nancy Atkins et al., appellants, vs. United States of America, et al. Acceptance of service of citation on appeal to Supreme Court U. S. by Nancy Atkins et al. Filed Mar. 3, 1921. E. E. Koch, clerk.

5052 In the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, APPELLANT,
v.
MINNIE ATKINS ET AL., APPELLEES, } 5420.

and

NANCY ATKINS, APPELLANT,
v.
UNITED STATES OF AMERICA ET AL., APPELLEES. } 5425.

To the United States of America, through D. H. Linebaugh and Paul Pinson, Special Assistants to the Attorney General; Minnie Folk, nee Atkins, Charles Harrison; Harvey Harrison; Harry B. Folk; Edward C. Hanford; Gem Oil Company, a corporation; and Charles Page and ———, executor of the estate of Minnie Folk, nee Atkins, deceased, greeting:

You are hereby notified that in a certain cause as above styled and numbered, lately pending in the United States Circuit Court of Appeals for the Eighth Circuit, wherein the United States of America was the appellant and Nancy Atkins et al. was on the same record also an appellant, an appeal has been allowed from the decree of said Circuit Court of Appeals for the Eighth Circuit, rendered on November 22, 1920, wherein the decree in the above-styled cause of the United States District Court for the Eastern District of Oklahoma was affirmed.

You are therefore hereby cited and admonished to be and appear in the Supreme Court of the United States in Washington, D. C., 30 days after the date of this citation to show cause, if any there be, why the decree appealed from should not be corrected and speedy justice should not be done the parties in that behalf.

Witness the Honorable Walter H. Sanborn, judge of the United States Circuit Court of Appeals for the Eighth Circuit, this, the 16th day of February, 1921.

(Signed) WALTER H. SANBORN,
Judge of the United States Circuit Court of Appeals of the Eighth Circuit.

Service of the above and foregoing citation accepted on this March 2, 1921, on behalf of appellee, United States of America, and appearance in said cause, No. 5425, entered on behalf of said appellee.

D. H. LINEBAUGH,
Special Assistant to the Attorney General.

(Endorsed:) No. 5420. United States of America, appellant, vs. Minnie Atkins et al. No. 5425. Nancy Atkins et al., appellants, vs. United States of America et al. Copy of citation and acceptance of service by United States of America. Filed, Mar. 4, 1921. E. E. Koch, clerk.

5053 *Clerk's certificate.*

UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT.

I, E. E. Koch, clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing transcript of record, and the additional transcript of record pursuant to stipulation of parties, composed of six volumes, Volume I consisting of pages 1 to 818, inclusive; Volume II consisting of pages 819 to 1672, inclusive; Volume III consisting of pages 1673 to 2566, inclusive; Volume IV consisting of pages 2567 to 3449, inclusive; Volume V consisting of pages 3451 to 4290, inclusive, and Volume VI consisting of pages 4291 to 5052, inclusive, contain the transcripts of the record from the District Court of the United States for the Eastern District of Oklahoma, as prepared, printed, and certified by the clerk of said district court to the United States Circuit Court of Appeals in pursuance of the act of Congress approved February 13, 1911, and full, true, and complete copies of the pleadings, record entries, and proceedings, including the opinion had and filed in the United States Circuit Court of Appeals except the full captions, titles, and endorsements omitted in pursuance of the rules of the Supreme Court of the United States in certain causes in said Circuit Court of Appeals, wherein the United States of America was appellant and Minnie Atkins et al. were appellees, No. 5420, and wherein Nancy Atkins et al. were appellants and the United States of America et al. were appellees, No. 5425, as full, true, and complete as the originals of the same remain on file and of record in my office.

I do further certify that the original citation on appeal by the United States of America with acceptances of service is hereto attached and herewith returned.

I do further certify that the original acceptance of service by counsel for the United States of America, endorsed upon a copy of the citation on the appeal by Nancy Atkins et al. and also the
5054 original acceptance of service by counsel for Minnie Atkins et al. on said appeal, are hereto attached and herewith returned, the original citation on said appeal not having been returned to the clerk's office.

In testimony whereof I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit, at office in the city of St. Louis, Missouri, this eighth day of March, A. D. 1921.

[SEAL.]

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

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